

Exhibit B

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In the Matter Of:

UNITED STATES OF AMERICA v

GOOGLE, LLC

ITAMAR SIMONSON, PH.D.

February 28, 2024



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1 A. So one of them is Kate
2 Schofield. The other person's name is
3 Greg Weiss.
4 Q. W-E-I-S-S?
5 A. Yes.
6 Q. And who -- for whom does
7 Kate Schofield work?
8 A. They are both at Analysis
9 Group.
10 Q. Did they each conduct seven,
11 or how did they divide them up?
12 A. I don't remember exactly.
13 Each conducted several interviews. I
14 don't remember the exact distribution.
15 Q. And those two individuals
16 were responsible, together, for
17 conducting all 14?
18 A. Yes.
19 Q. And you listened to all 14?
20 A. Yes.
21 Q. And you listened to all 14
22 as they were occurring?
23 A. Yes.
24 Q. Were the preliminary

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1 interview respondents given any questions
2 in writing?
3 A. I don't -- I don't think so.
4 Q. And did the preliminary
5 interview respondents provide any written
6 answers?
7 A. I don't think so, no.
8 Q. And were the answers that
9 were given by the preliminary interview
10 subjects recorded in any way?
11 A. No, at least not to my
12 knowledge.
13 Q. Why not?
14 A. As I said, I -- I listened
15 to them, and the -- the interviewer
16 listened to them, so I saw no need to
17 record them.
18 Q. Did you take any notes at
19 all?
20 A. I did not.
21 Q. Did the interviewer take any
22 notes at all?
23 A. Not to my knowledge.
24 Q. Did the -- anyone else at

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1 the individuals who participated in the
2 preliminary interviews excluded from the
3 survey?
4 A. To my knowledge, yes.
5 Q. And to your knowledge,
6 were -- for the individuals who
7 participated in the preliminary
8 interviews, were their respective
9 companies excluded from the survey or
10 only the individual?
11 A. I mean, right now, sitting
12 here now, I don't remember the answer.
13 It may be another business
14 unit from the same company might have
15 been interviewed. But, actually, I
16 should not speculate about it. I'm not
17 sure.
18 Q. What were your instructions?
19 A. I don't recall giving
20 specific instructions on that issue.
21 Q. Do you recall the company
22 names of any of the individuals who were
23 interviewed as part of the 14 preliminary
24 interviews?

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1 A. No.

2 Q. You don't recall a single

3 company name?

4 MS. DEARBORN: Objection.

5 THE WITNESS: I don't -- if

6 I'm not wrong, I never knew their

7 names in the first place.

8 BY MS. WOOD:

9 Q. What were the gender of the

10 participants in the interview?

11 A. I think there are two

12 primary genders. So I'm -- what do you

13 mean by what were the genders?

14 Q. What was the gender

15 distribution of the interview

16 participants?

17 A. Didn't kept track of that.

18 It made no difference whatsoever. They

19 were whatever they were.

20 Q. Did you speak to any women?

21 A. I did not speak to anyone.

22 Q. Did you hear a conversation

23 involving a woman interview participant?

24 A. I'm pretty sure that the

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1 or the position, then I heard it
2 while listening to the interview.
3 BY MS. WOOD:
4 Q. But you don't recall that
5 now?
6 A. Exactly.
7 Q. But you wouldn't have to
8 memorize that information if you'd taken
9 notes of that information, right?
10 A. It was completely
11 unimportant for me.
12 Q. Okay. Over what period of
13 time were the preliminary interviews
14 conducted?
15 A. I think -- I forget.
16 Maybe -- I forget. Maybe August,
17 September.
18 Q. So over multiple weeks?
19 A. Yes. I think -- I forget
20 exactly. I think that the large-spend
21 advertisers were conducted first, if I'm
22 not wrong. Then the agencies. Then the
23 low-spend advertisers.
24 Q. And why were they done in

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1 that order?

2 A. I'm not sure. Just received
3 names of large advertisers first, and --
4 and then wanted to do some agencies.

5 Q. So were all the
6 large-spend-advertiser preliminary
7 interviews conducted before the first
8 agency interview was conducted?

9 A. You know, I -- I don't
10 recall. I -- I don't know. I'm not sure
11 that's the case, but I just don't
12 remember.

13 Again, it was completely --
14 it was not important at all.

15 Q. But you did ask Advertiser
16 Perceptions to schedule the large-spend
17 advertiser interviews before the agency
18 and low-spend advertiser agencies?

19 A. I'm not sure if it was an
20 explicit request, but I think that's the
21 way it happened, that we first received
22 names of large advertisers and then said,
23 okay, let's talk to some agencies. And
24 then there were the smaller advertisers.

<p style="text-align: right;">Page 146</p> <p>1 Q. And you don't remember the</p> <p>2 single company name of any of those</p> <p>3 agencies or advertisers?</p> <p>4 MS. DEARBORN: Objection to</p> <p>5 form.</p> <p>6 THE WITNESS: Again, as I</p> <p>7 said, as far as I recall, I never</p> <p>8 heard those names. And that</p> <p>9 might explain why I don't</p> <p>10 remember any name.</p> <p>11 BY MS. WOOD:</p> <p>12 Q. Well, did you ever ask the</p> <p>13 names?</p> <p>14 A. No. I couldn't care less</p> <p>15 about the specific name.</p> <p>16 Q. Okay.</p> <p>17 A. It was not important.</p> <p>18 As I explained, the purpose</p> <p>19 of the survey was quite limited, the</p> <p>20 preliminary interviews.</p> <p>21 Q. How long --</p> <p>22 A. And for that -- for that</p> <p>23 purpose, there was no need to know the</p> <p>24 names and all those other things you were</p>	<p style="text-align: right;">Page 148</p> <p>1 that might have followed by a few</p> <p>2 additional unstructured interviews.</p> <p>3 Q. In general, do you consider</p> <p>4 it to be a best practice to take notes</p> <p>5 during preliminary interviews?</p> <p>6 A. No.</p> <p>7 Q. Why not?</p> <p>8 A. Well, you know, each person</p> <p>9 has his or her rules. And many years</p> <p>10 ago, I noticed that, while being a</p> <p>11 student, that I often took the time to</p> <p>12 take notes. And then thinking back, I</p> <p>13 said, have I ever used those notes. And</p> <p>14 the conclusion was no, I just don't use</p> <p>15 notes. And I developed a rule of let's</p> <p>16 not waste my time and effort taking</p> <p>17 notes.</p> <p>18 Q. So that's a rule that you</p> <p>19 follow, not to take notes?</p> <p>20 A. You know, it's not written</p> <p>21 anywhere. Just it's one of those rules</p> <p>22 that we individuals develop, if you will,</p> <p>23 over our lifetime.</p> <p>24 Q. So is the answer to my</p>
<p style="text-align: right;">Page 147</p> <p>1 asking about.</p> <p>2 Q. How long was each interview?</p> <p>3 A. I think close to an hour.</p> <p>4 In some cases an hour.</p> <p>5 Q. What was the variability in</p> <p>6 the length of the interviews?</p> <p>7 A. I don't recall exactly.</p> <p>8 Probably between 45 minutes and</p> <p>9 65 minutes.</p> <p>10 Q. And were the interviewees</p> <p>11 given breaks during the interview?</p> <p>12 A. No.</p> <p>13 Q. When you have conducted</p> <p>14 preliminary interviews in the past,</p> <p>15 whether for academic or litigation</p> <p>16 surveys, did you ever take notes?</p> <p>17 A. You know, I don't recall</p> <p>18 ever conducting such interviews. I might</p> <p>19 have, but I just don't recall that.</p> <p>20 As I said, I typically</p> <p>21 worked with doctoral students on</p> <p>22 research. And one of their privileges,</p> <p>23 if you will, is they handle this kind of</p> <p>24 work. And then we met to discuss. And</p>	<p style="text-align: right;">Page 149</p> <p>1 question yes, that is a rule you've</p> <p>2 developed for yourself, not to take</p> <p>3 notes?</p> <p>4 MS. DEARBORN: Objection to</p> <p>5 form. Asked and answered.</p> <p>6 THE WITNESS: As I said,</p> <p>7 yeah, based on my experience, I</p> <p>8 do not take notes.</p> <p>9 BY MS. WOOD:</p> <p>10 Q. Part of your academic work</p> <p>11 has focused on people's propensity to</p> <p>12 misremember things; is that right?</p> <p>13 A. Can you point me to a</p> <p>14 particular article?</p> <p>15 I published a number of</p> <p>16 articles. I don't remember apropos all</p> <p>17 the articles. Maybe you can point to a</p> <p>18 particular article where I studied people</p> <p>19 not remembering.</p> <p>20 Q. Do you have any -- as you</p> <p>21 sit here now, do you recall publishing</p> <p>22 any academic work in the field of</p> <p>23 behavioral economics on how people are</p> <p>24 subject to missed memories -- mistaken</p>

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<p>1 Q. At the beginning of the</p> <p>2 preliminary interview guide, it asks if</p> <p>3 the participant has any questions before</p> <p>4 the interviewer is to continue.</p> <p>5 Do you recall whether any of</p> <p>6 the interview participants asked any</p> <p>7 questions at that point?</p> <p>8 A. I don't recall that they</p> <p>9 did, but it's not inconceivable. I just</p> <p>10 don't recall any questions.</p> <p>11 Q. Do you recall whether any of</p> <p>12 the interview participants asked</p> <p>13 questions about Google's sponsorship</p> <p>14 and/or the litigation involving Google?</p> <p>15 A. I do not recall, no.</p> <p>16 Q. You don't recall that one</p> <p>17 way or the other?</p> <p>18 A. I just don't recall any</p> <p>19 question being asked.</p> <p>20 Q. But you don't deny there</p> <p>21 might have been questions asked?</p> <p>22 MS. DEARBORN: Objection to</p> <p>23 form.</p> <p>24 THE WITNESS: You cannot</p>	<p>1 of telling them, your company is not</p> <p>2 involved, so that respondents don't feel</p> <p>3 like maybe they are inadvertently saying</p> <p>4 something that may come to -- or that may</p> <p>5 be used against their own company.</p> <p>6 Q. What was your basis for</p> <p>7 suggesting that the participant's company</p> <p>8 was not involved?</p> <p>9 A. There was a list of</p> <p>10 companies that we talked about, and</p> <p>11 they -- those who were included in the</p> <p>12 preliminary interviews were not on that</p> <p>13 list.</p> <p>14 Q. And that list is Appendix I</p> <p>15 of your -- to your report, correct?</p> <p>16 A. Yes, I believe so.</p> <p>17 Q. And Appendix I is dated as</p> <p>18 of August 15, 2023.</p> <p>19 Do you see that?</p> <p>20 A. Let's see. Let me find</p> <p>21 that.</p> <p>22 MS. DEARBORN: Counsel, if</p> <p>23 you'd like me to help the</p> <p>24 witness -- he found it.</p>
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<p>1 deny something that you're not</p> <p>2 aware of.</p> <p>3 I was there. I listened to</p> <p>4 the interviews. I don't remember</p> <p>5 any questions.</p> <p>6 BY MS. WOOD:</p> <p>7 Q. But it's possible that you</p> <p>8 forgot?</p> <p>9 A. We -- yeah. We are all</p> <p>10 human, and we are capable of forgetting.</p> <p>11 Q. In the introduction to the</p> <p>12 preliminary interview guide, it states,</p> <p>13 "Based on our research, we understand</p> <p>14 that your company is not a participant in</p> <p>15 those lawsuits."</p> <p>16 What did you mean by "a</p> <p>17 participant in those lawsuits"?</p> <p>18 A. Well, that was a way of</p> <p>19 saying -- I mean, I didn't want to kind</p> <p>20 of get into, well, you should know that</p> <p>21 those who got, say, a subpoena or -- et</p> <p>22 cetera. It was determined that they</p> <p>23 should not participate in the survey.</p> <p>24 So that was a succinct way</p>	<p>1 THE WITNESS: I found the</p> <p>2 appendix. Yeah.</p> <p>3 Let's see. Okay.</p> <p>4 BY MS. WOOD:</p> <p>5 Q. Were -- were there other</p> <p>6 iterations of the no-contact list other</p> <p>7 than this one that is as of August 15,</p> <p>8 2023?</p> <p>9 A. I'm not aware of any other</p> <p>10 list.</p> <p>11 Q. Were any interviews of any</p> <p>12 kind conducted prior to August 15, 2023?</p> <p>13 A. I don't think so.</p> <p>14 Q. You indicated in your</p> <p>15 report, at Paragraph 34, that these</p> <p>16 people that appear on -- in Appendix I,</p> <p>17 the no-contact list, were excluded at the</p> <p>18 direction of counsel.</p> <p>19 A. Right.</p> <p>20 Q. Is that correct?</p> <p>21 A. Yes.</p> <p>22 Q. Was the intent, to your</p> <p>23 understanding, to exclude individuals or</p> <p>24 entities that might have a stake in</p>

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<p>1 litigation against Google?</p> <p>2 MS. DEARBORN: Please</p> <p>3 exclude from your -- from your</p> <p>4 answer any information you</p> <p>5 received only from counsel in</p> <p>6 that regard.</p> <p>7 THE WITNESS: So I don't</p> <p>8 want to speculate about that.</p> <p>9 I mean, I could -- I could</p> <p>10 come up with my own reasoning,</p> <p>11 but I'd -- I'd rather not</p> <p>12 speculate. Because no one said</p> <p>13 that's the reason why people who</p> <p>14 are directly involved in this</p> <p>15 litigation should not be</p> <p>16 interviewed.</p> <p>17 I am familiar from other</p> <p>18 contexts. Let's say if there are</p> <p>19 class actions in a particular</p> <p>20 category, and a class has already</p> <p>21 been certified, then I know that</p> <p>22 if you conduct a survey after the</p> <p>23 class was certified, you should</p> <p>24 not contact class members.</p>	<p>1 Appendix I?</p> <p>2 A. I don't recall. Certainly</p> <p>3 not me.</p> <p>4 Q. Do you know the criteria</p> <p>5 that was used to include individuals or</p> <p>6 companies on the no-contact list?</p> <p>7 MS. DEARBORN: Same</p> <p>8 caution.</p> <p>9 THE WITNESS: I do not</p> <p>10 know.</p> <p>11 BY MS. WOOD:</p> <p>12 Q. Do you know why, if the</p> <p>13 intent was to survey advertisers, why</p> <p>14 this list contains non-advertisers, such</p> <p>15 as publishers?</p> <p>16 MS. DEARBORN: Same</p> <p>17 caution.</p> <p>18 THE WITNESS: I just do not</p> <p>19 know.</p> <p>20 BY MS. WOOD:</p> <p>21 Q. Do you know why the entities</p> <p>22 on the no-contact list are classified in</p> <p>23 the right-hand column under the type of</p> <p>24 entity?</p>
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<p>1 Now, that's a different</p> <p>2 thing. Here we are not talking</p> <p>3 about a class. But, you know, it</p> <p>4 seems to have the same sort of</p> <p>5 flavor.</p> <p>6 BY MS. WOOD:</p> <p>7 Q. I guess my question is to</p> <p>8 you as the designer of the survey.</p> <p>9 Was it your intent to</p> <p>10 exclude entities that would have a</p> <p>11 financial stake in the outcome of</p> <p>12 litigation against Google?</p> <p>13 MS. DEARBORN: Same</p> <p>14 caution, but you can answer the</p> <p>15 question.</p> <p>16 THE WITNESS: As I said,</p> <p>17 I -- I don't -- I did not have</p> <p>18 the intention. It was an</p> <p>19 instruction from counsel, so I</p> <p>20 didn't ask them, why are you</p> <p>21 telling me not to include them.</p> <p>22 BY MS. WOOD:</p> <p>23 Q. And who prepared the</p> <p>24 no-contact list that appears at</p>	<p>1 MS. DEARBORN: Same</p> <p>2 caution.</p> <p>3 THE WITNESS: Again, I</p> <p>4 didn't prepare it, so I don't</p> <p>5 know why.</p> <p>6 BY MS. WOOD:</p> <p>7 Q. And was every entity on the</p> <p>8 no-contact list excluded regardless of</p> <p>9 the classification in the column, type of</p> <p>10 entity?</p> <p>11 A. Yes.</p> <p>12 Q. And was every individual who</p> <p>13 was in any way associated as an employee</p> <p>14 or otherwise with each of those companies</p> <p>15 also excluded?</p> <p>16 A. So if any individuals who</p> <p>17 were associated with whatever it is,</p> <p>18 reading the first one, 33 across, were</p> <p>19 not interviewed.</p> <p>20 Q. So, for example, where it</p> <p>21 says Alaska Department of Labor, no one</p> <p>22 from the Alaska Department of Labor would</p> <p>23 be contacted or interviewed, even though</p> <p>24 Alaska Department of Labor is referenced</p>

<p style="text-align: right;">Page 206</p> <p>1 hypothetical question about return on</p> <p>2 investment, ROI, on programatic display</p> <p>3 going down by 5 percentage points and</p> <p>4 whether that would prompt the respondent</p> <p>5 to change spending on programatic</p> <p>6 display.</p> <p>7 Do you see that?</p> <p>8 A. I do.</p> <p>9 Q. Who developed the idea for</p> <p>10 that question?</p> <p>11 A. It was probably me. It was</p> <p>12 probably me. And I thought, even though</p> <p>13 I believed that that is an improper</p> <p>14 question for the actual survey -- and</p> <p>15 I've written about it, and I've done</p> <p>16 studies about that, and I've criticized</p> <p>17 other people who ask people, let's say</p> <p>18 the price goes up by X percent. No,</p> <p>19 let's say the price goes up by Y percent,</p> <p>20 and so on.</p> <p>21 Those questions are flawed</p> <p>22 in all kinds of ways. And it was clear</p> <p>23 to me that the only option, if we're</p> <p>24 thinking now about the diversion</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. Why did you ask a bad</p> <p>2 question in the preliminary interview?</p> <p>3 A. Well, it's a bad question in</p> <p>4 the sense that I don't believe that these</p> <p>5 respondents can give a meaningful,</p> <p>6 informative answer.</p> <p>7 But given that I was not</p> <p>8 going to rely on those initial</p> <p>9 interviews, I said, okay, let's hear what</p> <p>10 they say in response to such a question.</p> <p>11 Q. Why would you want to ask a</p> <p>12 question that didn't give meaningful,</p> <p>13 informative answers?</p> <p>14 MS. DEARBORN: Objection to</p> <p>15 form. Misstates testimony.</p> <p>16 THE WITNESS: As I said, I</p> <p>17 asked a question because I wanted</p> <p>18 to hear how they think about it.</p> <p>19 I was not going to rely on</p> <p>20 their answers. And, as you know,</p> <p>21 I did not rely on the -- on the</p> <p>22 answers to the qualitative</p> <p>23 interviews, with the exception of</p> <p>24 things that I'd talked about</p>
<p style="text-align: right;">Page 207</p> <p>1 question, is to have a meaningful term</p> <p>2 that is not an absolute number, not a</p> <p>3 specific quantity.</p> <p>4 And if you're interested,</p> <p>5 I'm happy to share with you some of the</p> <p>6 research I've done on this topic. I</p> <p>7 already mentioned earlier, the pillow</p> <p>8 paper, which summarizes many of those</p> <p>9 studies. But if you read the articles</p> <p>10 that I have published over the years,</p> <p>11 you'll see the same thing over and over</p> <p>12 again.</p> <p>13 So, here, I wanted to see in</p> <p>14 the context of the preliminary</p> <p>15 interviews, on which I was not going to</p> <p>16 rely for any purpose other than the</p> <p>17 things that I already said. I didn't</p> <p>18 think that asking them what would you do,</p> <p>19 would you change X if the cost went up by</p> <p>20 5 percent. That's a bad question. I</p> <p>21 criticize other people for doing that.</p> <p>22 So I think -- yeah, so that</p> <p>23 question was asked. Not a question I</p> <p>24 would include in an actual survey.</p>	<p style="text-align: right;">Page 209</p> <p>1 earlier.</p> <p>2 But the 5 percent would</p> <p>3 have been a bad question, a</p> <p>4 question that I personally</p> <p>5 criticized others for using, and</p> <p>6 I published articles making that</p> <p>7 point.</p> <p>8 BY MS. WOOD:</p> <p>9 Q. But my question to you is</p> <p>10 not why you didn't use the 5 percent</p> <p>11 question in your ultimate survey. You've</p> <p>12 given extensive answers about that. What</p> <p>13 I'd like to know is why you did use it in</p> <p>14 the preliminary interview.</p> <p>15 What information did it give</p> <p>16 you that you couldn't have gotten through</p> <p>17 other means?</p> <p>18 MS. DEARBORN: Form.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: Maybe I could</p> <p>21 have asked a different question.</p> <p>22 I just said, let's -- let's ask</p> <p>23 about X percent, whatever it is,</p> <p>24 5 percent, 10 percent,</p>

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1 20 percent. For whatever reason,
2 I ask here about 5 percent.
3 And then there's a question
4 there in B about -- goes down by
5 10 percentage point.
6 So I asked those questions
7 knowing there are severe
8 limitations.
9 BY MS. WOOD:
10 Q. But why?
11 A. Why. Because I just wanted
12 to hear how respondents think about that
13 issue.
14 Q. Why was that important to
15 you?
16 A. Just to inform me in this
17 exploratory phase and to see how they
18 think about those kind of issues.
19 Q. And why phrase it in a way
20 that you believe to be problematic? Why
21 couldn't you phrase it in a way that you
22 thought was less problematic and still
23 hear that -- how they think about those
24 issues?

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1 A. I mean --
2 MS. DEARBORN: Objection to
3 form.
4 THE WITNESS: I could have
5 asked it in other ways. That's
6 probably true.
7 I, for whatever reason -- I
8 don't remember, exactly, my
9 thinking process at the time.
10 But I just happened to ask about
11 the 5 percent and then the
12 10 percent.
13 BY MS. WOOD:
14 Q. And your recollection is the
15 5 percent and the 10 percent were
16 concepts that you came up with, not
17 concepts that were suggested to you by
18 anyone else?
19 A. Absolutely.
20 Q. And you refer to
21 Question 45, and similar -- well, related
22 questions in the survey as the diversion
23 questions.
24 Do you remember that?

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1 A. I remember that. I mean,
2 I --
3 MS. DEARBORN: Yeah, sorry.
4 I object to form.
5 BY MS. WOOD:
6 Q. My question is just who came
7 up with the idea of a diversion question
8 at all -- regardless of how it's
9 phrased --
10 A. I see.
11 Q. -- who came up -- was that
12 part of your assignment or was that
13 something you came up with?
14 A. So I think an issue that I
15 wanted to get at was whether display,
16 programmatic display advertising, or in
17 the case of the smaller advertisers,
18 display advertising, has substitutes.
19 In other words, if the cost
20 of display -- display advertising goes
21 up, whether respondents would say, in
22 that case we're not changing; or they
23 say, yes, we will change.
24 Again, making sure I'm not

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1 asking about absolute or a specific
2 number. And when I ask them about the
3 extent of diversion to each type, I,
4 again, use a relative scale, going from,
5 keep to same, to increase substantially.
6 Q. Again, my question was, was
7 that diversion topic -- generally, not
8 how it was worded -- part of your
9 assignment or an idea that you came up
10 with?
11 A. No. As I said -- I'm sorry.
12 Maybe I didn't give you a direct answer.
13 Yeah, I was asked, among
14 other issues -- and you see the list of
15 objectives -- to design a survey that
16 will examine the degree of substitution,
17 if any, from between display advertising
18 and other types of digital advertising.
19 Q. And with that assignment in
20 mind, you came up with Question 45 in the
21 preliminary interview guide?
22 MS. DEARBORN: Form.
23 THE WITNESS: Absolutely
24 not.

<p style="text-align: right;">Page 214</p> <p>1 BY MS. WOOD:</p> <p>2 Q. Okay. How, if at all, did</p> <p>3 Question 45 in the preliminary interview</p> <p>4 guide inform the survey questions on that</p> <p>5 same subject of diversion?</p> <p>6 A. It did not. As I said, if</p> <p>7 you look at the question, it's entirely</p> <p>8 different.</p> <p>9 Question 45 has the flaws</p> <p>10 that I pointed to in earlier work. Was</p> <p>11 not intended to be the diversion question</p> <p>12 in an actual survey.</p> <p>13 Q. In other work, have you ever</p> <p>14 used flawed questions like Number 45?</p> <p>15 A. Yes.</p> <p>16 Q. And if you believe 45 --</p> <p>17 A. And I should say other</p> <p>18 surveys -- if we talk about unstructured</p> <p>19 qualitative interviews that are</p> <p>20 exploratory in nature, where my focus was</p> <p>21 on other issues, in which case the actual</p> <p>22 wording of the questions was not an</p> <p>23 important consideration, or maybe I</p> <p>24 wanted to explore, for whatever reason,</p>	<p style="text-align: right;">Page 216</p> <p>1 sure there are all kinds of</p> <p>2 options.</p> <p>3 The specific phrasing of</p> <p>4 the question was not an important</p> <p>5 consideration, so that just came</p> <p>6 to mind, and that's what I used</p> <p>7 in those -- in those preliminary</p> <p>8 interviews.</p> <p>9 BY MS. WOOD:</p> <p>10 Q. But in those preliminary</p> <p>11 interviews, you drafted -- and regardless</p> <p>12 of whether you drafted, you certainly</p> <p>13 approved Question 45, correct?</p> <p>14 A. Right.</p> <p>15 Q. Why did you focus</p> <p>16 Question 45 on return on investment going</p> <p>17 down as opposed to costs going up, for</p> <p>18 example?</p> <p>19 A. Well, you know, I cannot sit</p> <p>20 here, six, seven months later and</p> <p>21 recreate my thinking back then. I mean,</p> <p>22 any question you ask, there are probably</p> <p>23 other ways of asking it.</p> <p>24 I don't -- I don't recall</p>
<p style="text-align: right;">Page 215</p> <p>1 something else.</p> <p>2 Q. But even in an</p> <p>3 unstructured -- unstructured qualitative</p> <p>4 interview, why wouldn't you want your</p> <p>5 questions to be as good as possible?</p> <p>6 MS. DEARBORN: Form.</p> <p>7 THE WITNESS: I thought</p> <p>8 that this set of questions would</p> <p>9 inform me about the thinking of</p> <p>10 those few respondents.</p> <p>11 I was not interested, and</p> <p>12 as I said, as you know, I did not</p> <p>13 bother to remember this content</p> <p>14 of specific answers. I just</p> <p>15 wanted something that has to do</p> <p>16 with cost increase.</p> <p>17 BY MS. WOOD:</p> <p>18 Q. And why couldn't you have</p> <p>19 just asked the survey participants, what</p> <p>20 would you do if there was a cost</p> <p>21 increase?</p> <p>22 MS. DEARBORN: Form.</p> <p>23 THE WITNESS: Yeah, I</p> <p>24 haven't thought about that. I'm</p>	<p style="text-align: right;">Page 217</p> <p>1 considering what you just said. But</p> <p>2 there are other ways -- and especially</p> <p>3 when you conduct those kind of</p> <p>4 interviews, where the content of the</p> <p>5 answers is not important and the actual</p> <p>6 survey will be entirely different than</p> <p>7 these qualitative interviews, having the</p> <p>8 perfect question was not my intention or</p> <p>9 criterion that I considered for those</p> <p>10 limited interviews.</p> <p>11 Q. I can understand why you</p> <p>12 wouldn't be concerned with coming up with</p> <p>13 the perfect question.</p> <p>14 My question is why you would</p> <p>15 use a question with known flaws?</p> <p>16 MS. DEARBORN: Objection to</p> <p>17 form. Asked and answered.</p> <p>18 THE WITNESS: As I said --</p> <p>19 as I said, I -- it did not</p> <p>20 affect. It just came to mind,</p> <p>21 5 percent. I saw other people,</p> <p>22 whom I had criticized, use those</p> <p>23 kind of questions in a couple of</p> <p>24 cases, and I said, okay, someone</p>

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<p>1 else used something like that.</p> <p>2 Maybe -- which I criticized.</p> <p>3 Maybe I -- I'll just use</p> <p>4 something like that, even though</p> <p>5 I previously criticized that.</p> <p>6 BY MS. WOOD:</p> <p>7 Q. Do you do that often? Do</p> <p>8 something that you, in other</p> <p>9 circumstances, criticize?</p> <p>10 MS. DEARBORN: Objection to</p> <p>11 form.</p> <p>12 THE WITNESS: It's -- might</p> <p>13 have happened, depending on the</p> <p>14 purpose of what I'm studying.</p> <p>15 I mean, I don't -- I</p> <p>16 wouldn't include in my actual</p> <p>17 surveys flawed questions or</p> <p>18 things that I criticized. In</p> <p>19 fact, I'm making effort for that</p> <p>20 not to happen. Most importantly,</p> <p>21 because I believe in what I said.</p> <p>22 And if I criticize them for</p> <p>23 asking those kinds of questions,</p> <p>24 I believe that the wrong thing to</p>	<p>1 have made no difference to me.</p> <p>2 It's not something I looked at.</p> <p>3 That was not the intention of</p> <p>4 that question.</p> <p>5 And that's another way of</p> <p>6 saying the format of the</p> <p>7 question, in the context of those</p> <p>8 very few interviews, really</p> <p>9 played no significant role in my</p> <p>10 thought process.</p> <p>11 BY MS. WOOD:</p> <p>12 Q. What was the purpose of the</p> <p>13 question? If you didn't care about the</p> <p>14 5 percent, you didn't care about the</p> <p>15 10 percent, you didn't care about the</p> <p>16 ROI, what did you care about?</p> <p>17 MS. DEARBORN: Objection to</p> <p>18 form.</p> <p>19 THE WITNESS: I think I</p> <p>20 already answered that a few</p> <p>21 times.</p> <p>22 As I said, I wanted to see</p> <p>23 if there is -- if something jumps</p> <p>24 out here in the survey,</p>
Page 219	Page 221
<p>1 say, to ask, and I would not</p> <p>2 include that in my surveys.</p> <p>3 BY MS. WOOD:</p> <p>4 Q. But you have no problem with</p> <p>5 asking flawed questions that you've</p> <p>6 criticized, as long as you know in</p> <p>7 advance that you're not going to keep the</p> <p>8 results of those or use the results of</p> <p>9 those?</p> <p>10 A. Has --</p> <p>11 MS. DEARBORN: Please let</p> <p>12 me get an objection in.</p> <p>13 Objection to form.</p> <p>14 THE WITNESS: It has</p> <p>15 nothing to do with keeping the</p> <p>16 results or not keeping the</p> <p>17 results. It has absolutely</p> <p>18 nothing to do with that.</p> <p>19 As I said, let's say I</p> <p>20 ask -- ask about 5 percent, and</p> <p>21 they say, okay, that will cause</p> <p>22 us to decrease use of display</p> <p>23 advertising by 57 percent or by</p> <p>24 10 percent or not at all. Would</p>	<p>1 something, like, I use a term.</p> <p>2 You asked me about that.</p> <p>3 100 percent of the respondents</p> <p>4 say, DSP, never heard about this</p> <p>5 thing. Or advertising tool. I</p> <p>6 mean, that might give me a pause</p> <p>7 at least. They may be</p> <p>8 unrepresentative, given with all</p> <p>9 but such a small sample, but that</p> <p>10 may give me pause.</p> <p>11 In addition, I want to see,</p> <p>12 am I interviewing people who are</p> <p>13 knowledgeable. We discussed</p> <p>14 earlier my selection of AP.</p> <p>15 So regardless of the</p> <p>16 question format and the answers,</p> <p>17 that's not what I used those few</p> <p>18 preliminary interviews for.</p> <p>19 BY MS. WOOD:</p> <p>20 Q. Do you recall any answers at</p> <p>21 all that you got in response to</p> <p>22 Question 45?</p> <p>23 MS. DEARBORN: Form.</p> <p>24 THE WITNESS: I do not.</p>

<p style="text-align: right;">Page 222</p> <p>1 BY MS. WOOD:</p> <p>2 Q. Have you now told me</p> <p>3 everything that you recall about the</p> <p>4 14 preliminary interviews?</p> <p>5 MS. DEARBORN: Form.</p> <p>6 THE WITNESS: I hesitate</p> <p>7 to -- I believe so. Nothing</p> <p>8 comes to mind that I didn't tell</p> <p>9 you. But, obviously, it's a</p> <p>10 function of the question you ask.</p> <p>11 But I cannot think of anything I</p> <p>12 have not told you. I think the</p> <p>13 past four hours addressed the --</p> <p>14 BY MS. WOOD:</p> <p>15 Q. Is there --</p> <p>16 A. -- qualitative interviews</p> <p>17 quite thoroughly.</p> <p>18 Q. Is there anything you could</p> <p>19 do to further refresh your recollection</p> <p>20 about the answers that you heard during</p> <p>21 the 14 preliminary interviews, other than</p> <p>22 what you've already done?</p> <p>23 A. No.</p> <p>24 Q. Did any of the interview</p>	<p style="text-align: right;">Page 224</p> <p>1 a complete run of the survey with a</p> <p>2 sufficiently large sample and you conduct</p> <p>3 a survey. And sometimes people may do</p> <p>4 that because they want to -- to know what</p> <p>5 the result would be.</p> <p>6 A pretest, I think it often</p> <p>7 involves a smaller number of respondents,</p> <p>8 and it's often designed to test whether</p> <p>9 people, for example, say, I don't</p> <p>10 understand what the survey is about, or</p> <p>11 some -- something out of the ordinary</p> <p>12 that tells you that there is something</p> <p>13 wrong with the survey.</p> <p>14 Q. How many pretests do you</p> <p>15 typically conduct for a survey?</p> <p>16 A. You said typically? None.</p> <p>17 Q. And why is that?</p> <p>18 A. In the context of</p> <p>19 litigation?</p> <p>20 Q. Yes.</p> <p>21 A. In the context of litigation</p> <p>22 it would be -- you know, sometimes an</p> <p>23 attorney would say, well -- if you talk</p> <p>24 about pretest like a pilot sort of --</p>
<p style="text-align: right;">Page 223</p> <p>1 participants ask any questions at all</p> <p>2 about Google or the lawsuit?</p> <p>3 MS. DEARBORN: Form.</p> <p>4 THE WITNESS: I think we</p> <p>5 talked about that already, and I</p> <p>6 do not recall anyone asking such</p> <p>7 a question.</p> <p>8 BY MS. WOOD:</p> <p>9 Q. Now, you also conducted</p> <p>10 pretests in connection with your work in</p> <p>11 this matter; is that right?</p> <p>12 A. Right.</p> <p>13 Q. And have you heard of the</p> <p>14 term "pilot test" used?</p> <p>15 A. Yes.</p> <p>16 Q. Is there a difference, in</p> <p>17 your mind, between a pretest and a pilot?</p> <p>18 A. You know, that's a good</p> <p>19 question. And I think probably different</p> <p>20 people may use those terms either</p> <p>21 interchangeably or as different.</p> <p>22 Q. And how do you use those</p> <p>23 terms?</p> <p>24 A. In my mind, a pilot would be</p>	<p style="text-align: right;">Page 225</p> <p>1 someone would say, well, I'm curious</p> <p>2 if -- what you -- can you find</p> <p>3 respondents and what the results will be.</p> <p>4 So that will involve, you</p> <p>5 know -- you know, a significant sample</p> <p>6 size. So that would be more along the</p> <p>7 lines of a pilot study. That happens.</p> <p>8 I -- if someone tells me</p> <p>9 about that -- let's say someone calls me</p> <p>10 about a trademark case and say, we -- we</p> <p>11 want to find out if a survey will show</p> <p>12 likelihood of confusion.</p> <p>13 I often say, you know, the</p> <p>14 threshold for likelihood of confusion is</p> <p>15 relatively low, let's say 15 percent,</p> <p>16 which means that there is a -- let's say,</p> <p>17 in the southern district of New York, I</p> <p>18 think it's 15 percent. In some places it</p> <p>19 might be slightly less.</p> <p>20 It means you need a fairly</p> <p>21 sizable sample size to find out -- I</p> <p>22 mean, obviously, if level of confusion is</p> <p>23 zero or 50 percent, you know, you don't</p> <p>24 need a large sample.</p>

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<p>1 But let's say it's in the --</p> <p>2 close to the threshold. You need quite a</p> <p>3 few respondents. And I tell the</p> <p>4 attorney, it's pointless. Let's design a</p> <p>5 survey as I think it should be designed</p> <p>6 and let the chips fall as they may. If</p> <p>7 the results are what you expect, just --</p> <p>8 that will be the survey. I may add even</p> <p>9 more respondents.</p> <p>10 If the results are not what</p> <p>11 you expect, then you will -- you will</p> <p>12 decide what you want to do, but chances</p> <p>13 are you will decide to hire another</p> <p>14 expert.</p> <p>15 Because if I would sit at a</p> <p>16 deposition and someone would ask, are you</p> <p>17 aware of any other survey that was</p> <p>18 conducted, I would say yes, because I was</p> <p>19 involved in a pretest, and I would have</p> <p>20 to -- and that happens often. That, you</p> <p>21 know -- usually, if I think beforehand,</p> <p>22 there's no way the attorney is correct, I</p> <p>23 just say, let's not waste your client's,</p> <p>24 you know, time and money. If it's kind</p>	<p>1 time TV for, I don't know, \$5 a month.</p> <p>2 And that -- they were pretty successful.</p> <p>3 I believe this case went all the way to</p> <p>4 the Supreme Court.</p> <p>5 But -- and that was sort of</p> <p>6 an unusual -- that -- that was a</p> <p>7 different kind of survey.</p> <p>8 But I normally don't --</p> <p>9 don't run pretests. I just design the</p> <p>10 survey as I think, based on my</p> <p>11 experience, it should be conducted, and</p> <p>12 then, as I said, let the chips fall as</p> <p>13 they may.</p> <p>14 Q. So what circumstances led</p> <p>15 you to do a pretest here?</p> <p>16 A. I just wanted to -- I didn't</p> <p>17 expect anything surprising. And,</p> <p>18 obviously, with such a small number of</p> <p>19 pretest interviews, that wouldn't tell</p> <p>20 you about -- anything about results.</p> <p>21 Just wanted to see if</p> <p>22 anything jumps out in the sense that, you</p> <p>23 know, when we ask respondents at the very</p> <p>24 end, do you have any questions, was</p>
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<p>1 of not so clear, then I say, okay, let's</p> <p>2 give it a try.</p> <p>3 And sometimes it is what</p> <p>4 they expect. Other times it's not what</p> <p>5 they expect. If it's not what they</p> <p>6 expect, I guess they tend to hire another</p> <p>7 expert.</p> <p>8 Q. How many times in litigation</p> <p>9 have you conducted a survey where you</p> <p>10 used pretests?</p> <p>11 A. Very -- you mean like --</p> <p>12 like what I did here with relatively few</p> <p>13 interviews?</p> <p>14 Q. Yes.</p> <p>15 A. Very, very few cases. Very</p> <p>16 few. I cannot think -- I think there</p> <p>17 were -- I did some pretests in the Oracle</p> <p>18 v. Google case.</p> <p>19 I might have done</p> <p>20 pretests -- I'm not even sure about</p> <p>21 that -- in a case involving the networks</p> <p>22 against a company that was mostly in</p> <p>23 New York, called Aereo -- I think it's</p> <p>24 spelled A-E-R-E-O -- which offered prime</p>	<p>1 any -- was any question unclear, if I</p> <p>2 find that many of the pretest respondents</p> <p>3 say, you know, X was not clear, you know,</p> <p>4 that definitely would have caused me to</p> <p>5 reconsider how I phrased that question.</p> <p>6 Q. Is it important that the</p> <p>7 pretest be done by participants who are</p> <p>8 generally representative of the larger</p> <p>9 survey population?</p> <p>10 A. If -- again, if the number</p> <p>11 of pretest respondents is small, then I'm</p> <p>12 not concerned about representativeness.</p> <p>13 Q. And here you conducted</p> <p>14 12 pretests; is that correct?</p> <p>15 A. Yes.</p> <p>16 Q. Five in the higher-spend</p> <p>17 category, three in the lower-spend</p> <p>18 category, and four in the ad agency</p> <p>19 category; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Did you keep records of</p> <p>22 those pretest results?</p> <p>23 MS. DEARBORN: Form.</p> <p>24 THE WITNESS: You know,</p>

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1 frankly, I don't recall if we
2 did.
3 I mean, that was actual
4 questionnaires that were -- I
5 don't -- I don't -- I'm not aware
6 of records being kept. But
7 sitting here now, I'm not
8 100 percent.
9 BY MS. WOOD:
10 Q. Did you ask that the records
11 be kept?
12 MS. DEARBORN: Form.
13 THE WITNESS: I -- I do
14 recall that -- being informed
15 that the respondents said
16 everything pretty much -- maybe
17 there were a couple of
18 exceptions -- everything was
19 clear and they did not identify
20 any problems.
21 BY MS. WOOD:
22 Q. What were the couple of
23 exceptions?
24 A. I -- I do not recall.

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1 Q. You don't recall anything
2 about the exceptions to everything being
3 clear?
4 MS. DEARBORN: Form.
5 THE WITNESS: I -- that's
6 correct.
7 BY MS. WOOD:
8 Q. Did you personally
9 participate in the pretest?
10 A. No.
11 Q. Who did?
12 A. I mean -- I mean, these were
13 actual -- they were similar -- aside from
14 the questions that appear at the end,
15 these were just like normal interviews.
16 Q. If you look at Appendix E to
17 your report, it has the pretest moderator
18 instructions?
19 A. Right. But the moderator
20 didn't ask the questions and did not
21 interfere in the -- at the beginning,
22 except for, you know, those
23 introductions.
24 And -- let's see. What --

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1 what page are you looking at?
2 Q. Your report, Appendix E.
3 A. So as I said, just a brief
4 introduction, then they go to the survey.
5 They complete it, and then they -- they
6 are asked a few brief questions.
7 But for all practical
8 purposes, these people did the survey on
9 their own, like actual respondents did
10 subsequently.
11 Q. Who was the moderator for
12 the 12 pretests?
13 A. If I recall correctly, they
14 were the same people that did the
15 qualitative interviews, but I'm not
16 certain about that. I don't -- I don't
17 recall.
18 Q. And you didn't listen to any
19 of the pretests?
20 A. No. There was nothing to
21 listen to, aside from, I guess, the last
22 few questions.
23 Q. Right. There was the -- the
24 script that you provide in Appendix E is

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1 what you could have listened to, right?
2 A. Right.
3 Q. And you did not?
4 A. I did not listen to those.
5 Yes.
6 Q. Okay. And -- and so you
7 have no firsthand knowledge of any of the
8 answers to any of the questions that were
9 asked as part of the pretest?
10 A. I had the reports of those
11 who did that.
12 Q. And were those written
13 reports?
14 A. I do not recall if that was
15 just information shared with me when we
16 met for our, you know, weekly meeting --
17 you know, one of our weekly meetings.
18 Yeah, and by the way, there
19 was no reason for me to participate
20 because most of the time is taken by the
21 respondent working on his or her own,
22 completing the survey.
23 Q. Right. But you could have
24 listened to the other portions, correct?

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1 difference?

2 A. Yes.

3 Q. Okay. Let's turn to

4 Exhibit 37 to your report, which is the

5 same response statistics for the

6 lower-spend advertiser survey.

7 MS. DEARBORN: Counsel, we

8 can go whenever, but at an

9 appropriate time to take a break,

10 I'm going to need a bio break.

11 MS. WOOD: Sure. I mean,

12 if you need one now --

13 MS. DEARBORN: No, it's

14 okay.

15 MS. WOOD: Let's just

16 finish this page.

17 MS. DEARBORN: That's fine.

18 THE WITNESS: So where --

19 BY MS. WOOD:

20 Q. It's Exhibit 37.

21 A. Okay.

22 Q. Now, this summarizes the

23 response statistics that were included

24 for the lower-spend advertiser survey,

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1 correct?

2 A. Right.

3 Q. And here you see the number

4 we discussed before, that 17 percent of

5 the lower-spend advertiser survey

6 participants were excluded because of the

7 answer that they gave to QS7, correct?

8 A. Right.

9 Q. And that was, for this

10 survey, 178 people, correct?

11 A. Right.

12 Q. And do you know, of those

13 individuals, how many of those had

14 indicated "other"?

15 A. Fewer.

16 Q. How many of -- if you turn

17 to Exhibit 40.

18 A. Okay.

19 Q. Exhibit 40 shows, in

20 response to QS8 -- so everyone whose data

21 is recorded in Exhibit 40, by definition,

22 made it through QS7, right?

23 A. Right.

24 Q. And do you see that

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1 zero percent of the respondents answered

2 that they were in government?

3 A. Yes, I do see that.

4 Q. And zero percent answered

5 that they were employed by a nonprofit?

6 A. That's right.

7 Q. Okay.

8 MS. WOOD: We can take a

9 break.

10 THE WITNESS: So -- and

11 these are the lower-spend

12 advertisers.

13 MS. WOOD: There's no

14 question pending.

15 THE WITNESS: Okay. I'm

16 just completing my answer.

17 I'm saying, this is an

18 exhibit that relates to lower

19 spend, where people who get --

20 got to this question were neither

21 nonprofit nor government.

22 BY MS. WOOD:

23 Q. The people who survived QS7

24 did not indicate that they were nonprofit

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1 or government, correct?

2 MS. DEARBORN: Objection to

3 form.

4 THE WITNESS: Exactly.

5 Even though, presumably, the QS7

6 for the low spend was somehow

7 better and presumably helped

8 increase the number of nonprofit

9 and government, that does not

10 appear to be the case.

11 But, anyway, we can take a

12 break.

13 MS. WOOD: Let's take a

14 break.

15 THE VIDEOGRAPHER: Going

16 off the record at 3:17 p.m.

17 (Short break.)

18 THE VIDEOGRAPHER: We are

19 going back on the record at

20 3:40 p.m.

21 BY MS. WOOD:

22 Q. Mr. Simonson, how many times

23 in your prior surveys have you told the

24 survey participants about the survey

<p style="text-align: right;">Page 286</p> <p>1 sponsor at the conclusion of the survey?</p> <p>2 A. In litigation -- in academic</p> <p>3 research it's done frequently. It's</p> <p>4 referred to as debriefing. Not -- not so</p> <p>5 much about -- I mean, they know who the</p> <p>6 sponsor is, presumably the university,</p> <p>7 but the purpose of the study is described</p> <p>8 during the debriefing process. So that's</p> <p>9 very common in academic research.</p> <p>10 In litigation, based on my</p> <p>11 experience, it's -- it's uncommon.</p> <p>12 Q. Have you ever done it before</p> <p>13 this case?</p> <p>14 A. I do not recall.</p> <p>15 Q. You don't recall ever doing</p> <p>16 it before this case?</p> <p>17 A. I do not.</p> <p>18 Q. And how many times in your</p> <p>19 prior surveys have you told participants</p> <p>20 at the end that the purpose of the survey</p> <p>21 was in connection with the litigation?</p> <p>22 A. Not in the same manner, I've</p> <p>23 not. There are a number of cases where I</p> <p>24 wanted to find out at the conclusion of</p>	<p style="text-align: right;">Page 288</p> <p>1 participants that the sponsor of the</p> <p>2 survey is involved in litigation and</p> <p>3 described the nature of that litigation</p> <p>4 to the survey participants at the</p> <p>5 conclusion?</p> <p>6 A. I don't recall doing that,</p> <p>7 even though I would not have had any</p> <p>8 concern, in other cases, doing it,</p> <p>9 because I know the questions have already</p> <p>10 been answered and cannot be changed. So</p> <p>11 it couldn't make any difference.</p> <p>12 Q. And how many times in prior</p> <p>13 surveys you've conducted have you offered</p> <p>14 the respondent an option to opt out of</p> <p>15 the survey results once they were</p> <p>16 informed about the survey sponsor and</p> <p>17 purpose?</p> <p>18 A. I don't recall.</p> <p>19 Q. You don't recall ever doing</p> <p>20 that?</p> <p>21 A. I don't recall doing that.</p> <p>22 I'm trying to think. It might have</p> <p>23 happened, something somewhat similar.</p> <p>24 But, you know, nothing comes to mind</p>
<p style="text-align: right;">Page 287</p> <p>1 the survey whether they're aware of any</p> <p>2 litigation in a related matter.</p> <p>3 For -- just to give you an</p> <p>4 example. I was involved in a case in</p> <p>5 which the maker of sugar accused the</p> <p>6 maker of Splenda that -- that Splenda</p> <p>7 actually has zero sugar in it, which it</p> <p>8 does. I mean, it's completely</p> <p>9 artificial, and it was very much on the</p> <p>10 news. And I wanted to know, given it was</p> <p>11 on, you know, national TV, I was curious</p> <p>12 to find out if respondents heard about</p> <p>13 it.</p> <p>14 Same thing. I was involved</p> <p>15 in a case pertaining to the Volkswagon</p> <p>16 diesel matter, also has received</p> <p>17 attention. So I was asking, have you</p> <p>18 heard about any litigation in the general</p> <p>19 area.</p> <p>20 So I've done that, but</p> <p>21 that's, obviously, different than -- than</p> <p>22 what was done here.</p> <p>23 Q. How many times have you done</p> <p>24 what was done here, disclosed to the</p>	<p style="text-align: right;">Page 289</p> <p>1 right now.</p> <p>2 Q. What are you thinking of</p> <p>3 that might have been similar?</p> <p>4 A. I'm trying to think whether</p> <p>5 it came up, let's say, in academic</p> <p>6 studies, where I would say, well, this</p> <p>7 study is about X. You know, if you wish,</p> <p>8 you -- you don't have to be included.</p> <p>9 Even though all the data are</p> <p>10 confidential, but -- so it might have</p> <p>11 happened. No specific study comes to</p> <p>12 mind right now.</p> <p>13 Q. So you can't think of any</p> <p>14 instance here, other than in this case,</p> <p>15 where, at the conclusion of the survey,</p> <p>16 you offered the respondents an option to</p> <p>17 opt out once the respondent knows the</p> <p>18 survey-sponsored purpose?</p> <p>19 A. Right.</p> <p>20 Q. Why did you do that here?</p> <p>21 MS. DEARBORN: Please</p> <p>22 exclude from your answer any</p> <p>23 discussions with counsel.</p> <p>24 THE WITNESS: So I was -- I</p>

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1 can say that I was -- I was
2 advised by counsel.
3 MS. DEARBORN: Right.
4 BY MS. WOOD:
5 Q. So it was not your decision?
6 A. It was not my decision. But
7 had I thought that that could change --
8 change the results or impact the
9 conclusions in any way, I would say no.
10 I wouldn't do it.
11 For example, had I been told
12 that you have to say -- to provide this
13 information upfront, I may very well have
14 said, in the context of this survey, that
15 I think that's problematic.
16 Q. And why would that be
17 problematic?
18 A. You know, I should say, in
19 general, it could be problematic.
20 Especially in surveys in which the
21 subject involves evaluations pertaining
22 to the sponsor of the survey.
23 So, for example, if I'm
24 doing a customer satisfaction survey, and

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1 I'm telling that this survey is being
2 conducted on behalf of Company X, and
3 then I'm asking them to evaluate
4 Company X, that could be a problem.
5 So in this survey, I don't
6 think -- I don't think that it would have
7 been a problem, because the questions do
8 not involve evaluations of the company
9 and the subjects are not focused on
10 Google, the sponsor of the -- of the
11 survey. And given the nature of this
12 question, I don't think it would have
13 been a problem.
14 But just in general, I
15 prefer not to provide that information
16 upfront.
17 Q. You indicated that counsel
18 advised you to make the disclosure. Did
19 counsel also advise you to exclude the --
20 to offer the respondents the option to
21 exclude their answers from the survey --
22 MS. DEARBORN: You can
23 answer --
24 BY MS. WOOD:

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1 Q. -- or is that a decision you
2 made?
3 MS. DEARBORN: I apologize.
4 You can answer that
5 question yes or no.
6 THE WITNESS: What?
7 MS. DEARBORN: You can
8 answer the question yes or no.
9 THE WITNESS: Let's read
10 the question again.
11 BY MS. WOOD:
12 Q. Sure.
13 You indicated that counsel
14 advised you to make the disclosure. My
15 question is a little bit different.
16 Did counsel also advise you
17 to offer the respondents an option to
18 exclude their answers from the survey or
19 was that a decision you made?
20 A. A little harder -- it's
21 possible -- I don't recall. It's
22 possible that counsel suggested that.
23 I also think that, given
24 that I just told them the purpose of the

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1 survey and its sponsor, it would be fair
2 to offer them that option.
3 So whether or not counsel
4 said that they thought that we should
5 offer that option, I think I would have
6 made the same decision.
7 Q. The decision being to, once
8 you've already told them about the
9 sponsor and the purpose, to at least give
10 them the option to exclude their data?
11 A. Exactly. Exactly. Because
12 if they said, you know -- give them the
13 option, if they don't want to be
14 included, notwithstanding the fact that
15 the survey never asked them what they
16 think about Google and so on.
17 Q. Now, here, a significant
18 percentage of the survey respondents were
19 excluded -- strike that.
20 Here, a significant
21 percentage of the survey responses --
22 strike that again.
23 Here, a significant
24 percentage of the survey respondents

<p style="text-align: right;">Page 294</p> <p>1 asked that their data be excluded, once</p> <p>2 they learned that the survey was being</p> <p>3 conducted on Google's behalf for</p> <p>4 litigation, correct?</p> <p>5 MS. DEARBORN: Objection to</p> <p>6 form.</p> <p>7 THE WITNESS: I mean, I</p> <p>8 think it's -- I forget the</p> <p>9 number. Between like 16 and 24.</p> <p>10 Something in that range.</p> <p>11 BY MS. WOOD:</p> <p>12 Q. And is that a significant</p> <p>13 percentage?</p> <p>14 MS. DEARBORN: Form.</p> <p>15 THE WITNESS: I mean, I --</p> <p>16 in this case, when, as a factual</p> <p>17 matter, we know that it's between</p> <p>18 16 percent and 24 percent, I see</p> <p>19 no need to translate that to any</p> <p>20 descriptive word. Because we do</p> <p>21 know, as a matter of fact, that</p> <p>22 it is between 16 percent and</p> <p>23 24 percent.</p> <p>24 BY MS. WOOD:</p>	<p style="text-align: right;">Page 296</p> <p>1 results. So I think that the</p> <p>2 findings are unaffected by that.</p> <p>3 Now, if someone wants to</p> <p>4 call 16 to 24 percent significant</p> <p>5 or not, that's -- you know, I</p> <p>6 don't see the point of that.</p> <p>7 BY MS. WOOD:</p> <p>8 Q. My question to you was can</p> <p>9 you answer the question whether</p> <p>10 16 percent is significant or not?</p> <p>11 MS. DEARBORN: Form.</p> <p>12 THE WITNESS: In my mind,</p> <p>13 in this particular case, it's not</p> <p>14 significant, and I see no reason</p> <p>15 whatsoever why 16 percent or</p> <p>16 24 percent in this context</p> <p>17 affected the results and the key</p> <p>18 conclusions.</p> <p>19 BY MS. WOOD:</p> <p>20 Q. What analysis did you do to</p> <p>21 determine whether these voluntary</p> <p>22 exclusions impacted the results of the</p> <p>23 surveys?</p> <p>24 A. As I said, I looked at the</p>
<p style="text-align: right;">Page 295</p> <p>1 Q. And so you can't answer</p> <p>2 whether 16 percent is significant or not?</p> <p>3 MS. DEARBORN: Form.</p> <p>4 THE WITNESS: As I said,</p> <p>5 I -- I don't. And I don't think</p> <p>6 other people that hear the word</p> <p>7 "significant," to translate that</p> <p>8 to a particular percentage. They</p> <p>9 just don't do that. I've</p> <p>10 conducted thousands of studies,</p> <p>11 and they just wouldn't speculate</p> <p>12 about a specific percentage.</p> <p>13 Unlike that, in this</p> <p>14 particular case we have effect.</p> <p>15 We know that between -- about</p> <p>16 16 percent and 24 percent chose</p> <p>17 to be excluded. So there's no</p> <p>18 need to say, okay, you know, in</p> <p>19 reality it was between 16 and 24.</p> <p>20 Now, is that significant?</p> <p>21 I don't think it's -- it's</p> <p>22 certainly -- there is no reason</p> <p>23 whatsoever why it would impact</p> <p>24 the survey conclusions or</p>	<p style="text-align: right;">Page 297</p> <p>1 remaining sample. I saw that it includes</p> <p>2 a very large number of the respondents in</p> <p>3 the three groups. I looked at</p> <p>4 differences. Let's say you can compare</p> <p>5 those that spend between half a million</p> <p>6 and \$15 million, compare that to 15 to</p> <p>7 more than 15.</p> <p>8 Does that make a difference?</p> <p>9 It does not make a difference.</p> <p>10 You're doing the same thing</p> <p>11 to subgroups in the low-spend</p> <p>12 advertisers. You don't find differences.</p> <p>13 In other words, regardless</p> <p>14 of -- of the composition of those who</p> <p>15 said that they do not want to be</p> <p>16 included, that would not have affected</p> <p>17 the main conclusions of this survey.</p> <p>18 Q. Did you do any mathematical</p> <p>19 analysis to assess whether the excluded</p> <p>20 population of voluntary exclusions</p> <p>21 differed from the population that was</p> <p>22 included in the results?</p> <p>23 MS. DEARBORN: Form.</p> <p>24 THE WITNESS: I'm not sure</p>

<p style="text-align: right;">Page 298</p> <p>1 what you mean by mathematical --</p> <p>2 what did you call it?</p> <p>3 BY MS. WOOD:</p> <p>4 Q. Analysis.</p> <p>5 A. Analysis.</p> <p>6 What do you have in mind?</p> <p>7 I'm not understanding your questions.</p> <p>8 Q. Did you look at the data</p> <p>9 that was collected from the voluntarily</p> <p>10 excluded participants and compare how</p> <p>11 that data looked against the data from</p> <p>12 the survey participants whose data</p> <p>13 remained?</p> <p>14 A. Okay. Can you rephrase? I</p> <p>15 don't think the question is meaningful.</p> <p>16 Obviously, those that were</p> <p>17 excluded, I don't have their data.</p> <p>18 But I'm looking at the data</p> <p>19 that I have. I see it's representative.</p> <p>20 There are no differences. I notice that</p> <p>21 the experts who prepare the rebuttal</p> <p>22 report, the only thing that he could say</p> <p>23 is, well, it was a little higher in the</p> <p>24 low-spend group than in the higher-spend</p>	<p style="text-align: right;">Page 300</p> <p>1 it doesn't exist, so I don't know more</p> <p>2 than that.</p> <p>3 Q. Well, it certainly existed</p> <p>4 at one time, correct?</p> <p>5 MS. DEARBORN: Form.</p> <p>6 THE WITNESS: I assume so.</p> <p>7 BY MS. WOOD:</p> <p>8 Q. And so what happened to it?</p> <p>9 MS. DEARBORN: Form.</p> <p>10 THE WITNESS: Well, as I</p> <p>11 said, AP might have had it. I</p> <p>12 don't know if they did. I assume</p> <p>13 that it was on their server</p> <p>14 somewhere.</p> <p>15 BY MS. WOOD:</p> <p>16 Q. Did you instruct them to</p> <p>17 preserve it?</p> <p>18 MS. DEARBORN: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: As I said,</p> <p>21 they were not going to be used or</p> <p>22 looked at. They were assured of</p> <p>23 confidentiality, and they were</p> <p>24 given the option to be excluded.</p>
<p style="text-align: right;">Page 299</p> <p>1 group. That's it.</p> <p>2 I didn't hear, nor can I</p> <p>3 think of, any scenario whereby the</p> <p>4 excluded would have affected the</p> <p>5 conclusions of the survey.</p> <p>6 Again, as I said earlier,</p> <p>7 this was not a survey about, you know,</p> <p>8 how much do you like Google. That was</p> <p>9 not the survey.</p> <p>10 Had it been about how much</p> <p>11 do you like Google or anything along</p> <p>12 those line, then I may have concerns</p> <p>13 about that, because it's possible that</p> <p>14 people who said they don't like Google</p> <p>15 may be more inclined to say, I want to be</p> <p>16 excluded.</p> <p>17 Q. Were the survey results from</p> <p>18 the participants who voluntarily excluded</p> <p>19 themselves retained?</p> <p>20 A. Nope. At least I'm not</p> <p>21 sure. I'm not aware -- I've never seen</p> <p>22 it, of course. AG, as far as I know, and</p> <p>23 we talked about it, they don't have that.</p> <p>24 So I'm -- as far as I know,</p>	<p style="text-align: right;">Page 301</p> <p>1 I think it's important, if</p> <p>2 you tell them that, not to break</p> <p>3 your -- violate your promise and</p> <p>4 start looking at the data,</p> <p>5 just -- even though you told them</p> <p>6 you would not do that. I think</p> <p>7 that would be unethical.</p> <p>8 BY MS. WOOD:</p> <p>9 Q. My question was did you</p> <p>10 instruct AP to preserve the data?</p> <p>11 MS. DEARBORN: Objection to</p> <p>12 form.</p> <p>13 THE WITNESS: I did not.</p> <p>14 BY MS. WOOD:</p> <p>15 Q. Are you aware of whether</p> <p>16 anyone on behalf of Google instructed AP</p> <p>17 to preserve the data?</p> <p>18 MS. DEARBORN: Objection to</p> <p>19 form.</p> <p>20 THE WITNESS: I greatly</p> <p>21 doubt it, but certainly not</p> <p>22 aware. And I don't think that</p> <p>23 Google was involved in that.</p> <p>24 Certainly, I can't imagine that</p>

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<p>1 Google would be telling AP what</p> <p>2 to do with data.</p> <p>3 BY MS. WOOD:</p> <p>4 Q. Did Google instruct AP to</p> <p>5 delete the data?</p> <p>6 MS. DEARBORN: Objection to</p> <p>7 form.</p> <p>8 THE WITNESS: As I said, I</p> <p>9 don't believe that -- I'm not</p> <p>10 aware of Google communicating</p> <p>11 with AP concerning this survey.</p> <p>12 BY MS. WOOD:</p> <p>13 Q. Did you instruct AP to</p> <p>14 delete the data?</p> <p>15 MS. DEARBORN: Object to</p> <p>16 form.</p> <p>17 THE WITNESS: I did not.</p> <p>18 BY MS. WOOD:</p> <p>19 Q. And you didn't -- you didn't</p> <p>20 instruct them to preserve it, either?</p> <p>21 MS. DEARBORN: Form.</p> <p>22 THE WITNESS: I did not</p> <p>23 communicate with AP about those</p> <p>24 who were excluded.</p>	<p>1 inconceivable, unlikely, that</p> <p>2 something like that would happen.</p> <p>3 As I said, that would be</p> <p>4 unethical, if I tell them, you're</p> <p>5 excluded, then your -- no one</p> <p>6 looks at your data and your wish</p> <p>7 will be respected, and then I</p> <p>8 said, okay, forget it. Actually,</p> <p>9 I'm going to look at that.</p> <p>10 That would be completely</p> <p>11 improper, and that's something</p> <p>12 that I would not allow.</p> <p>13 BY MS. WOOD:</p> <p>14 Q. And do you think it would be</p> <p>15 completely improper to destroy the data</p> <p>16 once it had been collected?</p> <p>17 MS. DEARBORN: Object to</p> <p>18 form.</p> <p>19 THE WITNESS: Yeah. No one</p> <p>20 raised a question, and -- I don't</p> <p>21 know. That's a different issue.</p> <p>22 That's not in -- in my domain.</p> <p>23 As I said, they were told</p> <p>24 that their data would not be</p>
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<p>1 I mean, obviously, I feel</p> <p>2 confident that including them</p> <p>3 would have made no difference.</p> <p>4 Maybe the numbers would be tiny</p> <p>5 difference -- tiny bit different</p> <p>6 in this direction or that</p> <p>7 direction, just based on random</p> <p>8 chance.</p> <p>9 I see no conceivable</p> <p>10 reason -- and I noticed that your</p> <p>11 expert couldn't come up with any</p> <p>12 scenario whereby those who chose</p> <p>13 to be excluded would change any</p> <p>14 of the conclusions.</p> <p>15 BY MS. WOOD:</p> <p>16 Q. If we had the data, we could</p> <p>17 actually determine mathematically if the</p> <p>18 data had an impact on the overall</p> <p>19 results, correct?</p> <p>20 MS. DEARBORN: Form.</p> <p>21 THE WITNESS: As I said, if</p> <p>22 you look at those, at the number</p> <p>23 who were -- chose to be excluded,</p> <p>24 you can tell that it's extremely</p>	<p>1 used, and that's what we should</p> <p>2 have done.</p> <p>3 BY MS. WOOD:</p> <p>4 Q. Now -- but you have no</p> <p>5 reason to believe that Advertiser</p> <p>6 Perceptions destroyed the data, correct?</p> <p>7 A. I know nothing about what AP</p> <p>8 did with the data.</p> <p>9 Q. And you never asked that?</p> <p>10 A. That's correct.</p> <p>11 Q. Do you know whether Analysis</p> <p>12 Group has the data?</p> <p>13 A. They don't.</p> <p>14 Q. That you know?</p> <p>15 A. We talked about it. They</p> <p>16 don't.</p> <p>17 Q. And, originally, the data</p> <p>18 was communicated in the form of an Excel</p> <p>19 spreadsheet, correct?</p> <p>20 MS. DEARBORN: Form.</p> <p>21 What -- what data are you</p> <p>22 referring to, Counsel?</p> <p>23 MS. WOOD: The survey data.</p> <p>24 THE WITNESS: I believe so.</p>

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1 BY MS. WOOD:
2 Q. And there was an Excel
3 spreadsheet containing survey data for
4 each of the three surveys, correct?
5 A. I believe so. Whether there
6 might have been some other more basic or
7 primitive data that was collected that
8 was not in Excel, I'm not sure.
9 But the datasets that I saw
10 were all in -- in Excel.
11 Q. And if there was a
12 difference in the results between the
13 included and the excluded respondents, an
14 analysis of the excluded responses would
15 show whether the survey was reliable,
16 correct?
17 MS. DEARBORN: Form.
18 THE WITNESS: Could you
19 read that question again.
20 BY MS. WOOD:
21 Q. Yeah.
22 If there was a difference
23 between the results -- the survey results
24 generated from the survey respondents and

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1 the survey results generated from the
2 excluded respondents, that information
3 would assist the finder in fact in
4 determining whether the survey produced
5 reliable results, correct?
6 MS. DEARBORN: Objection to
7 form.
8 THE WITNESS: Absolutely
9 not. This imaginary scenario.
10 I guess you're saying those
11 who chose to be excluded,
12 actually none of them would have
13 diverted, none of them
14 multi-home, none of them runs
15 experiment, none of them uses
16 agency.
17 I think that's such a
18 nonsensical scenario that I
19 assume you didn't ask it
20 seriously.
21 BY MS. WOOD:
22 Q. For other populations that
23 were excluded, you did look at their data
24 and compared it to the final results,

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1 correct?
2 A. Could you rephrase.
3 Q. Do you recall looking at the
4 data for the excluded fast readers and
5 slowpokes and determining whether that
6 data was or was not consistent with the
7 data for the overall survey participants?
8 A. Some of it I did, yes.
9 Q. And do you recall looking at
10 data concerning respondents who had
11 selected decoy options and comparing
12 whether that data was consistent or not?
13 A. Right.
14 Q. But you didn't do that with
15 respect to the percentages of excluded --
16 voluntarily excluded data, correct?
17 MS. DEARBORN: Form.
18 THE WITNESS: I'm not -- I
19 have trouble making the
20 connection between the two.
21 Let's say that people who
22 spend less time or too much time
23 on the questionnaire -- and let's
24 say that we ignore them and then

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1 we look at the results, I think
2 that makes sense.
3 What that has to do with
4 separating those who chose to be
5 excluded, about whom I have no
6 information, and those who the
7 great majority were included,
8 that's completely different.
9 BY MS. WOOD:
10 Q. Did you consider the
11 possibility that the respondents who
12 chose to have their data excluded might
13 vary from the other population because
14 they are the respondents who worry about
15 possible recriminations?
16 MS. DEARBORN: Form.
17 THE WITNESS: I thought
18 about that and exclude -- and
19 rejected that. Because, again --
20 and I think I already said that.
21 You have to look at the
22 type of survey that you're doing.
23 If you're asking people, do
24 you -- do you use an ad agency,

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1 do you run experiments. If the
2 cost of something went up, would
3 you switch to something else, and
4 so on.

5 There's nothing in these
6 questions that someone could say,
7 okay, well, this survey is
8 sponsored by Google, and Google
9 probably wants me to say that I
10 use an ad agency; and, therefore,
11 I'm not going to share
12 information because I already
13 said that I use an ad agency.

14 I mean, this story makes
15 absolutely no sense. And I have
16 yet to hear any explanation why
17 such behavior would be observed.
18 It just makes no sense.

19 BY MS. WOOD:
20 Q. Would you agree with the
21 principle that a survey should avoid
22 revealing the sponsor of the survey and
23 its purpose?
24 A. At the beginning of the

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1 survey, I agree. At the end it makes no
2 difference.

3 Q. But at the end it makes a
4 difference if that data -- if the survey
5 respondents are then given the
6 opportunity to remove the data, correct?
7 MS. DEARBORN: Form.
8 THE WITNESS: In many cases
9 it would not.

10 In this case, for example,
11 as I just explained, it did not,
12 for the obvious reasons. And if
13 someone has a new theory as to
14 why it could have affected the
15 results, I will be happy to -- to
16 look into that idea.

17 BY MS. WOOD:
18 Q. Would you agree that
19 double-blind protocols are standard
20 practice that should be employed in
21 surveys whenever possible?
22 A. Yes. When you start a
23 survey and while respondents answer the
24 questions, it is important to do that.

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1 Obviously, the impact of violating
2 double-blind may vary to some extent
3 across surveys. But I completely agree
4 that, in general, double-blind is an
5 important principle.

6 Q. And that principle is there
7 in order to ensure objectivity, correct?
8 A. In the case -- yeah, in many
9 cases, that's a key reason. Right.

10 Q. And, in fact, best practices
11 provide that the survey instrument itself
12 provide no explicit or even implicit
13 clues about the sponsorship, correct?
14 MS. DEARBORN: Form.
15 THE WITNESS: I think there
16 are many surveys where someone
17 could infer -- especially in
18 litigation but also in
19 academia -- where someone may
20 infer -- for example, if I show
21 you a toaster and it says Black &
22 Decker and I ask you who made
23 this product, I would assume that
24 many people would say it's

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1 probably done for Black & Decker.
2 Why are they showing me Black &
3 Decker toaster.

4 So it's unavoidable, to
5 some extent, in many surveys.

6 But I completely agree that
7 in general, double-blind is an
8 important principle that I've
9 tried to follow. Certainly
10 not -- I try not to reveal the
11 sponsor or purpose at the
12 beginning of a survey.

13 BY MS. WOOD:
14 Q. And was there some reason
15 why a double-blind protocol could not be
16 used for these three surveys, through the
17 end of the survey?
18 A. I thought we already talked
19 about that.

20 Q. From your perspective, what
21 was the reason why a double-blind
22 protocol could not be used for these
23 three surveys?
24 MS. DEARBORN: Objection to

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1 form.

2 THE WITNESS: Double --

3 double-blind protocol was used.

4 I'm not sure where you got the

5 idea that it's not.

6 I said at the very end.

7 You said through the end.

8 What matters is what

9 respondents know while they

10 answer the survey questions,

11 based on which conclusions are

12 reached.

13 Whether at the very end,

14 last screen, someone said well,

15 this survey is done on behalf of

16 X, that makes no difference.

17 BY MS. WOOD:

18 Q. Well, it made an actual

19 literal difference, because 16 to

20 24 percent of the respondents' answers

21 were excluded based on that difference,

22 correct?

23 MS. DEARBORN: Form.

24 THE WITNESS: But that's --

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1 that's a whole different issue.

2 And we already talked about that

3 as well.

4 But in any case, what's

5 important is what respondents

6 know while they answer the survey

7 questions.

8 In this case, none of the

9 respondents knew the sponsor or

10 purpose of the survey while

11 answering the questions.

12 BY MS. WOOD:

13 Q. What circumstances in this

14 case required, from your perspective,

15 disclosure of the survey sponsor to

16 survey participants?

17 MS. DEARBORN: Objection to

18 form.

19 And please exclude from

20 your answer conversations with

21 counsel.

22 THE WITNESS: As I said,

23 that was largely at the advice of

24 counsel.

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1 BY MS. WOOD:

2 Q. But I'm asking from your

3 perspective, putting aside what you were

4 told by counsel, from your perspective,

5 the circumstances of this case require

6 disclosure.

7 MS. DEARBORN: Form.

8 THE WITNESS: Again, that

9 was primarily based on whatever

10 counsel considered and the basis

11 for reaching that conclusion.

12 BY MS. WOOD:

13 Q. And you have testified in

14 other matters that knowing the identity

15 of the survey sponsor can change the

16 answers, correct?

17 MS. DEARBORN: Form.

18 THE WITNESS: I don't

19 recall specific. But it sounds

20 like something I would say. That

21 definitely I try to keep --

22 maintain a double-blind standard

23 while respondents answer the

24 survey questions.

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1 BY MS. WOOD:

2 Q. In fact, do you recall

3 testifying in other matters that "the

4 principle that a survey should avoid

5 revealing the sponsor of the survey and

6 its purpose is not in dispute among

7 professional survey takers"?

8 MS. DEARBORN: Objection to

9 form.

10 THE WITNESS: That --

11 survey takers. Okay.

12 Yeah, it's -- again, I

13 don't recall saying it, but it

14 sounds like something I would

15 say.

16 BY MS. WOOD:

17 Q. And, in fact, in your

18 report, you write that information about

19 the survey purpose and the sponsor "was

20 included at the end of the survey to

21 avoid introducing any potential bias in

22 the survey responses due to demand

23 effects whereby respondents might have

24 assumed that certain answers were

<p style="text-align: right;">Page 318</p> <p>1 expected or preferred."</p> <p>2 Is that right?</p> <p>3 A. That's what I wrote. Yeah,</p> <p>4 that sounds like what I just said here.</p> <p>5 Q. And you also referred in</p> <p>6 your report to focalism.</p> <p>7 Do you recall that?</p> <p>8 A. It sounds like something I</p> <p>9 would say, depending on each case.</p> <p>10 Q. And what is focalism?</p> <p>11 A. There are many examples.</p> <p>12 For example, if you ask</p> <p>13 people to think about the consequences of</p> <p>14 a particular event, let's say you move</p> <p>15 from, maybe, D.C. D.C., the weather is</p> <p>16 not so bad. But maybe moving from</p> <p>17 Minneapolis to Santa Monica or</p> <p>18 Burlingame, people may overfocus on the</p> <p>19 weather, not -- recognizing there are</p> <p>20 very many happy people in Minneapolis,</p> <p>21 the weather notwithstanding.</p> <p>22 So in other words, people</p> <p>23 sometimes focus on something too much</p> <p>24 and, thereby, overestimate its impact in</p>	<p style="text-align: right;">Page 320</p> <p>1 varies -- the significance of that varies</p> <p>2 across studies.</p> <p>3 But in some surveys, I give</p> <p>4 the example of a customer satisfaction</p> <p>5 survey. It could have a significant</p> <p>6 impact because respondents may wish to</p> <p>7 please the sponsor of the survey.</p> <p>8 Q. In your report, you write,</p> <p>9 "One would be hard-pressed to come up</p> <p>10 with a scenario whereby those respondents</p> <p>11 who used fewer advertising buying tools</p> <p>12 would be systematically more likely to</p> <p>13 indicate that they prefer not to be</p> <p>14 included in the sample."</p> <p>15 Do you recall that?</p> <p>16 A. Yeah. That sounds like</p> <p>17 something I would say.</p> <p>18 Q. Okay. Did you consider the</p> <p>19 scenario in which a customer of Google</p> <p>20 uses only one ad buying tool, which is</p> <p>21 Google's ad buying tool, and that in that</p> <p>22 scenario, that customer might be</p> <p>23 reluctant to say something that might</p> <p>24 upset Google?</p>
<p style="text-align: right;">Page 319</p> <p>1 cases involving patterns.</p> <p>2 Sometimes survey experts,</p> <p>3 particularly on behalf of plaintiffs, use</p> <p>4 a technique called conjoint analysis.</p> <p>5 And let's say that it's a</p> <p>6 smartphone, and they present a few</p> <p>7 features that are important, battery</p> <p>8 life, brand name, screen size, important</p> <p>9 attributes like that. And they also</p> <p>10 include something that we probably will</p> <p>11 all agree is much less important.</p> <p>12 But given that it -- this</p> <p>13 less important feature is the focus of</p> <p>14 the study, the conjoint study would tend</p> <p>15 to overestimate its impact in reality.</p> <p>16 So focalism could play different roles in</p> <p>17 different situations.</p> <p>18 Q. What were you referring to</p> <p>19 when you said that certain answers could</p> <p>20 be expected or preferred if the survey</p> <p>21 respondents were told of the purpose and</p> <p>22 sponsor at the beginning?</p> <p>23 A. Well, it's kind of a general</p> <p>24 principle, as I said, that, you know, it</p>	<p style="text-align: right;">Page 321</p> <p>1 MS. DEARBORN: Form.</p> <p>2 THE WITNESS: So what's the</p> <p>3 question? What do I think about</p> <p>4 it?</p> <p>5 BY MS. WOOD:</p> <p>6 Q. Did you consider the</p> <p>7 scenario -- you had said in your report</p> <p>8 that you would be hard-pressed to come up</p> <p>9 with a scenario. I'm offering you a</p> <p>10 scenario.</p> <p>11 What about the scenario in</p> <p>12 which a customer of Google uses only one</p> <p>13 ad buying tool, which is Google, and that</p> <p>14 customer might be reluctant to say</p> <p>15 something that might upset Google,</p> <p>16 particularly when that something was in</p> <p>17 connection with a serious antitrust</p> <p>18 litigation concerning Google?</p> <p>19 MS. DEARBORN: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: Okay. So I</p> <p>22 guess the scenario you are</p> <p>23 raising is that, notwithstanding</p> <p>24 the assurance that everything</p>

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1 That just calls for an
2 extra step. It's like, okay,
3 it's small, but it's something
4 that I would consider. It's
5 significant enough. And they
6 will decide accordingly.
7 They will not go an extra
8 step, convert it to a specific
9 quantity, and then say, okay,
10 based on my speculation, my
11 answer is X. That's not what
12 survey respondents do.
13 BY MS. WOOD:
14 Q. Okay. I'm now me, Julia
15 Wood, sitting here, and I'm thinking of a
16 number that to me is small but
17 significant.
18 A. So what -- what's the
19 question?
20 Q. What's my number?
21 MS. DEARBORN: Objection to
22 form.
23 THE WITNESS: Is that a
24 real --

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1 BY MS. WOOD:
2 Q. No, that's a real question.
3 I'm thinking of a number that's small but
4 significant. What's my number?
5 A. It reminds me of games I'm
6 playing with my grandkids.
7 Q. Good. Then you're
8 experienced at it.
9 What's my number?
10 MS. DEARBORN: Okay.
11 Objection to form.
12 THE WITNESS: I'm not sure
13 if you're -- I assume that you're
14 not asking that seriously.
15 But as I said, I will -- I
16 would not think of a number that
17 you're thinking about, nor will I
18 come up with a number. It would
19 be sheer speculation. Therefore,
20 I will not engage in that.
21 You told me it's small but
22 significant, and that's all the
23 information I have, and all the
24 information I will use when

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1 answering the question.
2 BY MS. WOOD:
3 Q. But if I come up with a
4 number that's small but significant to
5 me, that doesn't mean that same number
6 would be small but significant to you,
7 correct?
8 A. I thought I just answered
9 that.
10 No, you will not come up,
11 if -- I mean, obviously, you're involved
12 in this case, so you're not the typical
13 respondent.
14 But speaking of typical
15 respondents, they would not start
16 speculating about a specific number. So,
17 therefore, it's not like one respondent
18 thinks about Number X and the other one
19 thinks about Number Y. What basis do
20 they have to -- for such speculations?
21 Q. Regardless of the nature of
22 the speculation, it is possible -- strike
23 that.
24 You say in your report at

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1 Footnote 5, on Page 7, "This phrase,"
2 small but significant, "was designed to
3 leave it to the respondents to consider
4 their reaction, if any, if (what they
5 considered to be) 'a small but
6 significant' increase in the cost of
7 programatic display advertising
8 occurred."
9 Right?
10 A. Right.
11 Q. And then you say in
12 Footnote 65 of your report, on Page 39,
13 that "The balanced phrasing of 'small but
14 significant' avoids possible demand
15 effects whereby respondents might have
16 assumed that certain answers were
17 expected or preferred."
18 Can you describe how "small
19 but significant" is balanced phrasing, in
20 your view?
21 A. Okay. Small is usually
22 contrasted with big, and significant is
23 contrasted with insignificant.
24 One goes in one direction,

<p style="text-align: right;">Page 334</p> <p>1 small, and the other one goes in the</p> <p>2 other direction. I think it's a balanced</p> <p>3 term that begins with "small" and then</p> <p>4 goes to "significant."</p> <p>5 And then respondents have</p> <p>6 that term and they can answer the</p> <p>7 question.</p> <p>8 Q. And when hearing that</p> <p>9 phrase, is it your position that no</p> <p>10 respondent will ever attempt to quantify</p> <p>11 a number associated with "small but</p> <p>12 significant"?</p> <p>13 A. I don't know what you mean</p> <p>14 by "no respondent." I don't -- I tend</p> <p>15 not to talk in such terms.</p> <p>16 I don't know, maybe one in a</p> <p>17 million would. I'm not going to</p> <p>18 speculate about that.</p> <p>19 I'm saying, you have to rely</p> <p>20 on your survey practice, having conducted</p> <p>21 thousands of surveys. And there is a</p> <p>22 literature on the manner in which</p> <p>23 respondents answer questions.</p> <p>24 And in this case, it's</p>	<p style="text-align: right;">Page 336</p> <p>1 considered small but significant to be</p> <p>2 balanced because small tends in one</p> <p>3 direction, and significant, in your view,</p> <p>4 tends in a different direction.</p> <p>5 What about when you couple</p> <p>6 those two terms with the phrase "for the</p> <p>7 foreseeable future"?</p> <p>8 A. What -- what is that --</p> <p>9 MS. DEARBORN: Form.</p> <p>10 THE WITNESS: I'm not sure</p> <p>11 I follow the question.</p> <p>12 BY MS. WOOD:</p> <p>13 Q. Which direction does --</p> <p>14 which direction does "for the foreseeable</p> <p>15 future" take the otherwise balanced</p> <p>16 phrase "small but significant"?</p> <p>17 MS. DEARBORN: Form.</p> <p>18 THE WITNESS: I see no</p> <p>19 basis for believing that "for the</p> <p>20 foreseeable future" has any</p> <p>21 impact whatsoever.</p> <p>22 BY MS. WOOD:</p> <p>23 Q. "For the foreseeable future"</p> <p>24 is a subjective term, correct?</p>
<p style="text-align: right;">Page 335</p> <p>1 important to keep in mind "small but</p> <p>2 significant." No respondents has any</p> <p>3 basis for speculating that it means</p> <p>4 Number X. There is no basis for such</p> <p>5 speculation, and they would not do that.</p> <p>6 They were asked about small</p> <p>7 but significant. That's how they think</p> <p>8 about it.</p> <p>9 Q. And during the pretests,</p> <p>10 that was the first time that the phrase</p> <p>11 was used, correct? The phrase was not</p> <p>12 used in the preliminary interviews,</p> <p>13 right?</p> <p>14 A. That's right.</p> <p>15 Q. And you don't have any</p> <p>16 records indicating how pretest</p> <p>17 participants viewed or interpreted the</p> <p>18 phrase "small but significant," correct?</p> <p>19 MS. DEARBORN: Form.</p> <p>20 THE WITNESS: I didn't ask</p> <p>21 them about the meaning of this</p> <p>22 term or that term.</p> <p>23 BY MS. WOOD:</p> <p>24 Q. Okay. You said that you</p>	<p style="text-align: right;">Page 337</p> <p>1 MS. DEARBORN: Form.</p> <p>2 THE WITNESS: Actually, I</p> <p>3 don't -- I don't know if it's</p> <p>4 subjective. I haven't thought</p> <p>5 about it as subjective or</p> <p>6 objective.</p> <p>7 I think that the meaning is</p> <p>8 that in the future that you can</p> <p>9 see.</p> <p>10 BY MS. WOOD:</p> <p>11 Q. In any of the either</p> <p>12 preliminary interviews or pretests, did</p> <p>13 anyone ask the preliminary interview</p> <p>14 respondents or the pretest respondents</p> <p>15 whether they considered 5 percent to be</p> <p>16 small but significant?</p> <p>17 A. No.</p> <p>18 Q. Did anyone ask any of the</p> <p>19 preliminary interview respondents or</p> <p>20 pretest respondents whether 10 percent is</p> <p>21 small but significant?</p> <p>22 A. No.</p> <p>23 Q. Would you agree that</p> <p>24 different respondents might ascribe</p>

<p style="text-align: right;">Page 338</p> <p>1 different meanings to "for the 2 foreseeable future"?</p> <p>3 A. I don't see why that would 4 be. "For the foreseeable future," that 5 seems like a commonly used English term. 6 It's the future that you can see. Let's 7 say it's the next year or whatever it is.</p> <p>8 Q. Well, what is it? Is it the 9 next year or is it the next 50 years?</p> <p>10 A. No, I don't think -- I 11 wouldn't attach it to a particular 12 period. Probably not 50 years.</p> <p>13 But in the future that you 14 can make projections, that you can 15 predict.</p> <p>16 Q. And what about "remain 17 elevated," that is also a subjective 18 term, right? "Elevated"?</p> <p>19 A. No. "Remain elevated"? In 20 what way is it subjective?</p> <p>21 Q. What does elevation mean?</p> <p>22 A. Remain elevated. Increase 23 by 5 percent and it stays there.</p> <p>24 Q. Okay. And if it's remaining</p>	<p style="text-align: right;">Page 340</p> <p>1 THE WITNESS: As a generic 2 question, can it happen? Yeah. 3 It could happen in some cases.</p> <p>4 BY MS. WOOD:</p> <p>5 Q. So the foreseeable future to 6 me might mean 50 years. The foreseeable 7 to you might mean a year, right?</p> <p>8 A. As I said, neither one of us 9 will try to translate that to number of 10 days, a number of months or number of 11 years.</p> <p>12 Q. Why do you think neither one 13 of us will try -- how do you know how I'm 14 going to interpret foreseeable future and 15 whether I would translate that into a 16 specific time period or not?</p> <p>17 A. I think the only thing it 18 tells you is it is not going to go -- in 19 the foreseeable future, it's -- it's 20 staying elevated by 5 percent. That's 21 all it says.</p> <p>22 In other words --</p> <p>23 Q. But I don't know how long 24 foreseeable future is.</p>
<p style="text-align: right;">Page 339</p> <p>1 elevated for the foreseeable future, does 2 that mean that it's remaining elevated 3 for one year or 50 years?</p> <p>4 MS. DEARBORN: Form.</p> <p>5 THE WITNESS: I said, 6 again, respondents would not 7 attach the number of days to this 8 term. It's a term commonly used 9 in English, I believe. The 10 future that you can see.</p> <p>11 BY MS. WOOD:</p> <p>12 Q. A lot of the terms are 13 commonly used in English on which the 14 speakers and the hearers of those terms 15 don't agree, correct?</p> <p>16 A. What are you talking about, 17 specifically?</p> <p>18 Q. Just in general, there are 19 plenty of subjective terminology that's 20 used in the English language about which 21 a speaker and a hearer might have 22 different interpretations, correct?</p> <p>23 MS. DEARBORN: Objection to 24 form.</p>	<p style="text-align: right;">Page 341</p> <p>1 MS. DEARBORN: Objection to 2 form.</p> <p>3 THE WITNESS: Now, but I'm 4 asking you now, will you make a 5 decision. And if you say, okay, 6 it's not something that will 7 disappear in the next few days. 8 In the foreseeable future it will 9 remain at that elevated level.</p> <p>10 BY MS. WOOD:</p> <p>11 Q. But my view of what 12 constitutes the foreseeable future might 13 change my answer to that question.</p> <p>14 Maybe I do contracts every 15 six months. Maybe I do contracts every 16 five years. Maybe, for me, foreseeable 17 future is two weeks. Maybe for my 18 colleague, foreseeable future is a 19 ten-year contract.</p> <p>20 You have no way of 21 determining for any given respondent what 22 frame of reference they had in mind when 23 they answered the question for the 24 foreseeable future, correct?</p>

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1 whether you think that you're very likely
2 to watch the movie Oppenheimer.
3 In other words, there is
4 logical order to questions, and it would
5 make no sense to use any other order.
6 Q. That doesn't take away from
7 the fact that the question order effect
8 will impact answers to subsequent
9 questions, given how they've answered
10 previous questions, correct?
11 A. That's incorrect. That's
12 incorrect. I'm happy to explain why, but
13 it's completely incorrect in this case.
14 Q. If you've already indicated
15 that you would divert in response to an
16 increase in cost, it would be
17 inconsistent for a respondent to then be
18 inclined to answer that they would keep
19 the same amount of display spend if
20 they've already indicated they would
21 change their display spend.
22 Do you agree with that?
23 MS. DEARBORN: Form.
24 THE WITNESS: Are you --

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1 I'm not sure I follow the
2 question.
3 So when you say would you
4 divert to other types of digital
5 advertising?
6 BY MS. WOOD:
7 Q. Correct.
8 A. So from display to something
9 else?
10 Q. Correct.
11 A. Okay. I thought you asked
12 it would make no sense for you to
13 increase display.
14 But in any case, of course.
15 You just told me that you, as a result of
16 the price increase, you would divert. So
17 now I'm asking you, what would you divert
18 to.
19 You just -- there was no
20 order effect in this case. You just told
21 me that you would -- you will divert.
22 Q. And for those respondents
23 who already said they will divert, to
24 later ask them whether they will not

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1 change but keep the same, their level of
2 display spend, would be inconsistent,
3 correct?
4 MS. DEARBORN: Form.
5 THE WITNESS: I mean,
6 obviously, there are a number of
7 advertising options.
8 So they could very well
9 say, I'm going to increase X and
10 keep the same, something else.
11 Quite possible.
12 BY MS. WOOD:
13 Q. Now, in your Question 5 to
14 the higher-spend advertisers and
15 Question 4 to the agency participants,
16 you asked about the cost of programatic
17 display advertising; is that right?
18 A. You mean in this question
19 about diversion?
20 Q. Yes.
21 A. Yes.
22 Q. And for the lower-spend
23 advertisers, you changed, instead of cost
24 of programatic display advertising, you

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1 changed it to cost of display
2 advertising, right?
3 A. That's correct.
4 Q. Okay. Now, you understand
5 that the cost of display advertising
6 includes, as one component, the cost
7 associated with the AdTech tools used to
8 purchase display ads, right?
9 A. That's my understanding. I
10 mean, it was not -- yeah, it was not
11 something that I was trying to explore in
12 the survey. I just wanted to find out
13 whether an increase in the cost of, let's
14 say, programatic display advertising will
15 cause respondents to divert to other
16 forms of digital advertising, but --
17 Q. But you --
18 A. Yes. Go ahead.
19 Q. Well, no. Are you done with
20 your answer?
21 A. I think so.
22 Q. But you chose not to ask the
23 survey participants how they would react
24 to a small but significant increase in

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<p>1 the cost associated with AdTech tools as</p> <p>2 opposed to AdTech ads over -- as</p> <p>3 opposed -- let me try that again.</p> <p>4 You chose not to ask the</p> <p>5 survey participants how they would react</p> <p>6 to a small but significant increase in</p> <p>7 the cost of AdTech tools for programatic</p> <p>8 display advertising, correct?</p> <p>9 A. I was trying not to make the</p> <p>10 survey confusing. I -- the survey asked</p> <p>11 the questions that it asked. I think the</p> <p>12 right questions, properly phrased.</p> <p>13 I asked if the cost of,</p> <p>14 let's say, programatic display goes up by</p> <p>15 5 percent, as a general category,</p> <p>16 programatic -- cost of programatic</p> <p>17 display goes up by 5 percent. That's it.</p> <p>18 I was not -- did not intend,</p> <p>19 nor was it an objective of the survey, to</p> <p>20 look at components of cost and so on.</p> <p>21 Q. But you didn't ask</p> <p>22 whether -- in the survey, whether</p> <p>23 programatic display costs would go up by</p> <p>24 5 percent, correct?</p>	<p>1 MS. DEARBORN: Objection to</p> <p>2 form.</p> <p>3 THE WITNESS: No. No. No.</p> <p>4 I'm trying to -- I like</p> <p>5 variety -- no. I'm just kidding.</p> <p>6 I meant to say "small but</p> <p>7 significant."</p> <p>8 BY MS. WOOD:</p> <p>9 Q. Okay. And to you, does</p> <p>10 small and significant -- but significant</p> <p>11 mean 5 percent?</p> <p>12 MS. DEARBORN: Form.</p> <p>13 THE WITNESS: No.</p> <p>14 BY MS. WOOD:</p> <p>15 Q. You just thought of that</p> <p>16 number randomly?</p> <p>17 MS. DEARBORN: Form.</p> <p>18 THE WITNESS: I said</p> <p>19 5 percent. I'm sure we all</p> <p>20 sometimes use the wrong words.</p> <p>21 I -- in fact, I just read it,</p> <p>22 small but significant, yeah.</p> <p>23 BY MS. WOOD:</p> <p>24 Q. Okay. Why is there a link</p>
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<p>1 A. I did not or I did?</p> <p>2 Q. You did not.</p> <p>3 A. Let's read the questions.</p> <p>4 "Now suppose that, based on</p> <p>5 your analysis, the cost of programatic</p> <p>6 display advertising has recently</p> <p>7 increased by a small but significant</p> <p>8 amount," et cetera.</p> <p>9 So maybe I'm miss --</p> <p>10 misunderstanding your question.</p> <p>11 I did ask that, right?</p> <p>12 Q. You asked that, but you</p> <p>13 didn't ask whether the cost of</p> <p>14 programatic display would go up by</p> <p>15 5 percent, correct?</p> <p>16 A. Right. Oh, yeah, that's</p> <p>17 right.</p> <p>18 Q. Okay. And --</p> <p>19 A. Yeah. Correction. Yeah, I</p> <p>20 just -- I asked -- I guess we talked so</p> <p>21 much about small but significant that I</p> <p>22 was trying to --</p> <p>23 Q. You were trying to put a</p> <p>24 number to small but significant?</p>	<p>1 in your mind between 5 percent and small</p> <p>2 but significant?</p> <p>3 MS. DEARBORN: Objection to</p> <p>4 form. Argumentative. Assumes</p> <p>5 facts.</p> <p>6 THE WITNESS: The reason I</p> <p>7 make in my mind, I used the wrong</p> <p>8 word.</p> <p>9 BY MS. WOOD:</p> <p>10 Q. Now, you understand that if</p> <p>11 the cost of the AdTech tools is just one</p> <p>12 component of the cost of display ads,</p> <p>13 generally, then asking about a small but</p> <p>14 significant increase in the cost of</p> <p>15 display advertising overall, as opposed</p> <p>16 to a small but significant increase in</p> <p>17 the cost of certain AdTech tools, you are</p> <p>18 actually increasing the cost that the</p> <p>19 survey respondents are reacting to,</p> <p>20 right?</p> <p>21 MS. DEARBORN: Form.</p> <p>22 THE WITNESS: I'm not sure</p> <p>23 I follow your question.</p> <p>24 BY MS. WOOD:</p>

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<p>1 Q. Let's say, hypothetically,</p> <p>2 that AdTech tools are -- represent</p> <p>3 30 percent of the cost of a display ad.</p> <p>4 A. Okay.</p> <p>5 Q. And if you tell respondents</p> <p>6 that the cost of display ads goes up by a</p> <p>7 small but significant amount, but you</p> <p>8 don't tell them that the 30 percent cost</p> <p>9 of the AdTech tool goes up by a small but</p> <p>10 significant amount, you are necessarily</p> <p>11 causing the respondent to imagine a</p> <p>12 higher increase in cost than if you had</p> <p>13 them focus on the cost of the tool alone.</p> <p>14 MS. DEARBORN: Objection to</p> <p>15 form.</p> <p>16 BY MS. WOOD:</p> <p>17 Q. Do you understand that?</p> <p>18 A. I understand the question.</p> <p>19 Two things. A, the survey</p> <p>20 tested what happens if they are told that</p> <p>21 the cost of display advertising, or</p> <p>22 programatic display advertising, went up</p> <p>23 by a small but significant amount.</p> <p>24 That's what I tested. It is what it is.</p>	<p>1 have the data about the extent of</p> <p>2 diversion. And if most</p> <p>3 respondents say that it's between</p> <p>4 7 and 10, it means that maybe if</p> <p>5 it was lower than that, maybe the</p> <p>6 scale numbers would range</p> <p>7 between -- I don't want to</p> <p>8 speculate.</p> <p>9 Maybe they would have been</p> <p>10 somewhat lower, but there still</p> <p>11 would be substitution observed.</p> <p>12 BY MS. WOOD:</p> <p>13 Q. And by focusing on a higher</p> <p>14 cost than the cost of the AdTech tools</p> <p>15 alone, that has the potential to create</p> <p>16 demand effect, does it not?</p> <p>17 A. Not at all. It has nothing</p> <p>18 to do with demand effect.</p> <p>19 Q. If you were retained in a</p> <p>20 case where the plaintiffs sued Ford for</p> <p>21 monopolizing the market for truck</p> <p>22 chassises, would you ask participants</p> <p>23 about a potential increase in the price</p> <p>24 of Ford trucks overall, or a potential</p>
Page 359	Page 361
<p>1 Furthermore, as you know, I</p> <p>2 asked, later, the question about the</p> <p>3 magnitudes of diversion to each one, on a</p> <p>4 0 to 10 scale, and the most common</p> <p>5 answers were between 7 and 10, which</p> <p>6 means that respondents are thinking about</p> <p>7 substantial increases.</p> <p>8 So in case, let's say, it</p> <p>9 was -- the actual increase was somewhat</p> <p>10 lower, maybe the scale numbers would have</p> <p>11 been somewhat lower than between 7 and</p> <p>12 10. But there would still be diversion,</p> <p>13 which is what my survey tested and</p> <p>14 showed.</p> <p>15 Q. But you agree that if your</p> <p>16 survey had asked about a fraction of the</p> <p>17 costs of display advertising increasing</p> <p>18 and not all of the display advertising</p> <p>19 cost increasing, you could expect to see</p> <p>20 a different level of diversion than what</p> <p>21 you got in your sample?</p> <p>22 MS. DEARBORN: Form.</p> <p>23 THE WITNESS: As I just</p> <p>24 said, that's not the case. We</p>	<p>1 increase in the price of the truck</p> <p>2 chassises?</p> <p>3 MS. DEARBORN: Form.</p> <p>4 THE WITNESS: Yeah, I take</p> <p>5 survey design very seriously.</p> <p>6 And if I were asked to conduct a</p> <p>7 survey on this topic, I would</p> <p>8 think about it and figure out</p> <p>9 what's the right way to do.</p> <p>10 Sitting here now, I cannot</p> <p>11 design the right survey and,</p> <p>12 therefore, cannot answer this</p> <p>13 question.</p> <p>14 BY MS. WOOD:</p> <p>15 Q. But isn't the relevant</p> <p>16 question whether the monopolized product</p> <p>17 price changes, not whether some larger</p> <p>18 price changes?</p> <p>19 MS. DEARBORN: Objection to</p> <p>20 form.</p> <p>21 THE WITNESS: I hate to</p> <p>22 repeat myself.</p> <p>23 As I said, the survey</p> <p>24 looked at the effect on</p>

Page 362	Page 364
<p>1 substitution, if any, of</p> <p>2 increasing the cost of display or</p> <p>3 programatic display by a small</p> <p>4 but significant amount.</p> <p>5 And I also asked about the</p> <p>6 extent of diversion or</p> <p>7 substitution.</p> <p>8 As a result, we can</p> <p>9 conclude that even if I were</p> <p>10 asking about a portion of the --</p> <p>11 of a particular component of</p> <p>12 display advertising, there would</p> <p>13 still be substantial</p> <p>14 substitution.</p> <p>15 BY MS. WOOD:</p> <p>16 Q. Well, but you don't know</p> <p>17 that, because you've already testified</p> <p>18 that you don't know what the extent of</p> <p>19 the diversion would be if respondents</p> <p>20 were asked about the cost of AdTech tools</p> <p>21 changing, not AdTech -- not</p> <p>22 advertisements overall changing?</p> <p>23 MS. DEARBORN: Objection to</p> <p>24 form. Misstates prior testimony.</p>	<p>1 respondents would understand what I was</p> <p>2 referring to. Again, I tried, as much as</p> <p>3 possible, to simplify.</p> <p>4 Q. Well, but your -- your</p> <p>5 simplification, in this instance, asked a</p> <p>6 question that is not relevant to the</p> <p>7 lawsuit. It asked a question about</p> <p>8 whether the cost of programatic</p> <p>9 advertising would go up, not whether the</p> <p>10 cost of tools used to purchase</p> <p>11 programatic advertising would go up.</p> <p>12 Do you understand that?</p> <p>13 MS. DEARBORN: Objection to</p> <p>14 form. Argumentive. Calls for a</p> <p>15 legal conclusion.</p> <p>16 THE WITNESS: I said I</p> <p>17 already answered that previously.</p> <p>18 I'm happy to repeat.</p> <p>19 As I said, we can look at</p> <p>20 the actual data. And we know,</p> <p>21 based on the degree of diversion,</p> <p>22 that even if it were a component,</p> <p>23 and let's say there was a way to</p> <p>24 make the question crystal clear,</p>
Page 363	Page 365
<p>1 THE WITNESS: As I said, we</p> <p>2 have the data, but the degree to</p> <p>3 which they would divert, based on</p> <p>4 that, we know that even if it</p> <p>5 were lower than that, there would</p> <p>6 still be substitution,</p> <p>7 substantial substitutions.</p> <p>8 Maybe it will be somewhat</p> <p>9 different. But we know, based on</p> <p>10 the data that are available, that</p> <p>11 there would still be substantial</p> <p>12 substitution.</p> <p>13 BY MS. WOOD:</p> <p>14 Q. You could have chosen to</p> <p>15 use -- to ask survey participants whether</p> <p>16 they would divert, based on a small but</p> <p>17 significant change in the cost of AdTech</p> <p>18 tools, right? Nothing prevented you from</p> <p>19 asking that question?</p> <p>20 A. That would be a bad</p> <p>21 question.</p> <p>22 Q. Why would that be a bad</p> <p>23 question?</p> <p>24 A. I'm just not sure that</p>	<p>1 there would still be substantial</p> <p>2 substitutions -- substitution.</p> <p>3 BY MS. WOOD:</p> <p>4 Q. But you can't say what that</p> <p>5 diversion would be, because you don't</p> <p>6 have the data, correct?</p> <p>7 A. I asked the questions that I</p> <p>8 asked.</p> <p>9 Q. You asked in Question 7</p> <p>10 which of the following ad buying tools,</p> <p>11 if any, respondents used in the past</p> <p>12 year.</p> <p>13 Do you recall that,</p> <p>14 generally?</p> <p>15 A. Yes.</p> <p>16 Q. And you agreed that a</p> <p>17 respondent could answer that question</p> <p>18 with two or more ad buying tools, but</p> <p>19 that wouldn't necessarily mean that that</p> <p>20 respondent was using those two ad buying</p> <p>21 tools at the same time, correct?</p> <p>22 MS. DEARBORN: Form.</p> <p>23 THE WITNESS: It's within</p> <p>24 the period of time that -- it's</p>

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1 A. No.

2 Q. And you didn't interview any

3 AdTech providers?

4 A. Correct.

5 Q. What did you do to prepare

6 for this deposition today?

7 MS. DEARBORN: As usual,

8 please set aside the contents of

9 communications with counsel.

10 THE WITNESS: So I reviewed

11 the documents that I have,

12 including my report or reports.

13 Various -- and attachments.

14 I met with counsel.

15 I think that's -- that's

16 what comes to mind.

17 BY MS. WOOD:

18 Q. And how long did you meet

19 with counsel?

20 A. So I think we had a meeting

21 also with the AG team. I think it was

22 sort of a Zoom meeting that might have

23 lasted about two hours. I'm not sure

24 about that.

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1 And I think I met with

2 counsel. And there were also people from

3 AG the past two days. I think each

4 meeting lasted, perhaps, maybe four, four

5 and a half hours.

6 Q. Did anyone else, other than

7 the AG team and counsel, participate in

8 those meetings?

9 A. I don't think so.

10 Q. And did you review any

11 documents in connection with your

12 preparation for this deposition that were

13 not produced?

14 A. It's possible.

15 Q. What documents did you

16 review that were not produced?

17 A. I saw an e-mail, internal

18 e-mail, I think from 2018.

19 MS. DEARBORN: Okay. And I

20 don't think that you're entitled

21 to get the contents of documents

22 that were -- that were reviewed.

23 So please don't describe

24 the documents that you reviewed

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1 in preparation for your

2 deposition today.

3 THE WITNESS: Okay.

4 MS. DEARBORN: And --

5 BY MS. WOOD:

6 Q. Were the documents you

7 reviewed documents that Google's counsel

8 showed to you? You can just answer that

9 yes or no.

10 MS. DEARBORN: You can

11 answer that yes or no.

12 THE WITNESS: Yes.

13 MS. DEARBORN: And,

14 Counsel, I can make a

15 representation that those were

16 not documents that were not

17 produced in this case.

18 MS. WOOD: Okay. In other

19 words, every document he saw had

20 been produced in this case?

21 MS. DEARBORN: Correct.

22 BY MS. WOOD:

23 Q. Okay. Do you recall, based

24 on reviewing those documents, that people

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1 at Google had some pretty negative things

2 to say about Advertiser Perceptions at

3 times?

4 A. I can't --

5 MS. DEARBORN: Objection to

6 form.

7 And I also don't think that

8 you get to get at the contents of

9 the -- of the information that we

10 reviewed.

11 So if you'd like to put a

12 document in front of me -- in

13 front of him, you can ask him

14 about that.

15 But I'm going to instruct

16 the witness not to answer as to

17 the contents of documents that he

18 reviewed with counsel.

19 MS. WOOD: I'm not asking

20 him that. I'm asking whether he

21 recalls ever reviewing documents

22 in which Google internal

23 employees criticized Advertiser

24 Perceptions.

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1 MS. DEARBORN: You can
2 answer that question. It's a
3 different question.
4 THE WITNESS: Yes.
5 BY MS. WOOD:
6 Q. Do you recall reviewing
7 documents in which Google employees
8 stated they didn't have a very high
9 degree of confidence in the fidelity of
10 Advertiser Perceptions' research and
11 methodologies?
12 MS. DEARBORN: Objection to
13 form.
14 THE WITNESS: If I recall
15 correctly, there was a particular
16 individual who wrote that in an
17 e-mail, about this fidelity
18 language that you used.
19 BY MS. WOOD:
20 Q. Do you recall whether there
21 are other individuals at Google who
22 called Advertiser Perceptions "a junky
23 company with ridiculous results"?
24 MS. DEARBORN: Object to

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1 form.
2 THE WITNESS: I think there
3 was one other person in 2018 who
4 wrote it in an e-mail.
5 BY MS. WOOD:
6 Q. You write in your report
7 that Advertiser Perceptions has a
8 standard process they put in place to
9 generate survey samples that are
10 representative of the advertiser
11 population they are intended to reach.
12 Do you recall that?
13 A. Yes.
14 Q. What did you do to evaluate
15 that process that AP used to generate
16 representative survey samples?
17 A. So as I do in other surveys
18 in which I rely on internet panels,
19 happens quite often, I have a general
20 understanding that they have a list of
21 members and they randomly select from
22 that list.
23 I -- I can't remember any
24 case in which I examined specifically how

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1 they do that.
2 Q. So you did nothing to verify
3 that independently?
4 MS. DEARBORN: Form.
5 THE WITNESS: Just as I
6 don't verify it independently, in
7 all the numerous other surveys
8 that I conduct.
9 You have to work with firms
10 or panels that you trust.
11 BY MS. WOOD:
12 Q. Why did you run the surveys
13 consecutively rather than at the same
14 time?
15 A. No particular reason.
16 Q. Did you get preliminary
17 results from the higher-spend advertiser
18 surveys before the lower-spend advertiser
19 survey or agency survey was launched?
20 A. I don't recall,
21 specifically. It's possible that I had
22 at least partial results for some of the
23 questions for one survey before starting
24 the next.

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1 MS. WOOD: Why don't we go
2 off the record.
3 MS. DEARBORN: Sure.
4 THE VIDEOGRAPHER: Going
5 off the record at 5:34 p.m.
6 (Short break.)
7 THE VIDEOGRAPHER: We are
8 going back on the record at
9 5:47 p.m.
10 MS. WOOD: I am done with
11 my examination, subject to the
12 reservation of rights that I made
13 at the beginning of the
14 examination. But I have no
15 further questions at this time.
16 MS. DEARBORN: And yeah,
17 I'll notice that I think you have
18 45 minutes remaining. So we'll
19 meet and confer about it and come
20 to a decision on next steps.
21 MS. WOOD: Okay. Great.
22 MS. DEARBORN: I do have a
23 few questions for Dr. Simonson.
24 MS. WOOD: And I obviously

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ACKNOWLEDGMENT OF DEPONENT

I, Itamar Simonson, do
hereby certify that I have read the
foregoing pages, 1 - 393, and that the
same is a correct transcription of the
answers given by me to the questions
therein propounded, except for the
corrections or changes in form or
substance, if any, noted in the attached
Errata Sheet.

I. Simonson 3/28/2024
ITAMAR SIMONSON, Ph.D. DATE

Subscribed and sworn
to before me this
____ day of _____, 20____.

My commission expires: _____

Notary Public

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

Errata Sheet for the Transcription of Itamar Simonson, Ph.D.

Case Name: *United States et al v. Google LLC*, No. 1:23-cv-00108-LMB-JFA (E.D. Va.)

Depo. Date: February 28, 2024

Deponent: Itamar Simonson, Ph.D.

Page	Line	Original	Corrected	Reason
2	5	Suite 8700	Suite 8622	Transcription Error or Mistake
2	7	“julia.wood@usdoj.gov”	“julia.tarver.wood@usdoj.gov”	Transcription Error or Mistake
4	9	“OFFICDE”	“OFFICE”	Transcription Error or Mistake
20	9	“That will be the Meta”	“That would be the Meta”	Transcription Error or Mistake
25	22	“usually would be”	“usually it will be”	Transcription Error or Mistake
27	1	“will be the company”	“would be the company”	Transcription Error or Mistake
29	11	“order in that case”	“order entered in that case”	Transcription Error or Mistake
29	20	“anything. But one of my concerns”	“anything that one of my concerns”	Clarification / Transcription Error or Mistake
34	10:11	“It’s one example”	“Yeah, it’s one example”	Transcription Error or Mistake
45	12	“context effects and choice”	“context effects in choice”	Transcription Error or Mistake
50	24	“should be reserved”	“should be preserved”	Transcription Error or Mistake
62	5	“You know, I”	“Yeah, I”	Transcription Error or Mistake
89	9	“it does apply”	“it does not apply”	Transcription Error or Mistake
89	13	“programatic”	“programmatic”	Spelling Error
91	21	“programatic”	“programmatic”	Spelling Error
92	5	“programatic”	“programmatic”	Spelling Error
92	17	“programatic”	“programmatic”	Spelling Error
101	20	“programatic”	“programmatic”	Spelling Error
101	23	“Programatic”	“Programmatic”	Spelling Error
102	13	“programatic”	“programmatic”	Spelling Error
102	21	“programatic”	“programmatic”	Spelling Error
104	16	“programatic”	“programmatic”	Spelling Error

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

111	2	“So it was sort of just a get”	“So it was sort of just to get”	Transcription Error or Mistake
112	19	“programatic”	“programmatic”	Spelling Error
126	1	“up 14”	“up being 14”	Transcription Error
126	17:18	“there was no given number. They were not”	“there was no -- given the number, they were not”	Transcription Error/Clarification
132	14	“ad pros”	“AdPros”	Spelling Error
133	3	“ad pros”	“AdPros”	Spelling Error
133	17	“ad pros”	“AdPros”	Spelling Error
133	21	“ad pros”	“AdPros”	Spelling Error
134	7	“ad pros”	“AdPros”	Spelling Error
134	14	“ad pros”	“AdPros”	Spelling Error
134	19:20	“ad pros”	“AdPros”	Spelling Error
135	16	“add pros”	“AdPros”	Spelling Error
135	17	“ad pros”	“AdPros	Spelling Error
135	18	“ad pros”	“AdPros”	Spelling Error
144	7	“But you wouldn’t have to”	“But you wouldn’t have had to”	Transcription Error or Mistake
185	6:7	“They have different ways”	“There are different ways”	Transcription Error or Mistake
194	22	“programatic”	“programmatic”	Spelling Error
199	17	“you are not going to derive”	“you cannot derive”	Transcription Error or Mistake
200	9:10	“you also serve as searcher. You cannot look at that”	“you also as a researcher, you cannot look at that”	Transcription Error/Clarification
206	2	“programatic”	“programmatic”	Spelling Error
206	5	“programatic”	“programmatic”	Spelling Error
212	16	“programatic”	“programmatic”	Spelling Error
221	8:9	“given with all but such a small sample”	“given we talk about such a small sample”	Transcription Error/Clarification
222	6:8	“I hesitate to -- I believe so. Nothing comes to mind”	“I hesitate to -- I believe so, yes. I don’t -- nothing comes to mind”	Transcription Error/Clarification
236	9:10	“this think-aloud product called methodology”	“this think-aloud protocol methodology”	Transcription Error/Clarification
239	7	“or some cost effect”	“or the sunk cost effect”	Transcription Error or Mistake
255	14	“And they speculated”	“And he speculated”	Transcription Error or Mistake
262	13	“As I said, you are looking”	“As I said, you -- looking”	Transcription Error/Clarification
274	5	“programatic actions”	“programmatic auctions”	Spelling Error

HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

289	18	“survey-sponsored purpose”	“survey sponsor and purpose”	Transcription Error/Clarification
333	7	“programatic”	“programmatic”	Transcription Error or Mistake
340	6:7	“the foreseeable to you”	“the foreseeable future to you”	Transcription Error or Mistake
348	14	“programatic”	“programmatic”	Transcription Error or Mistake
348	15	“whether it will”	“whether they will”	Transcription Error or Mistake
352	16	“programatic”	“programmatic”	Spelling Error
352	24	“programatic”	“programmatic”	Spelling Error
353	14	“programatic”	“programmatic”	Spelling Error
354	7	“programatic”	“programmatic”	Spelling Error
354	14	“programatic”	“programmatic”	Spelling Error
354	16	“programatic -- cost of programatic”	“programmatic -- cost of programmatic”	Spelling Error
354	23	“programatic”	“programmatic”	Spelling Error
355	5	“programatic”	“programmatic”	Spelling Error
355	14	“programatic”	“programmatic”	Spelling Error
357	6:7	“The reason I make in my mind”	“There is no link in my mind”	Transcription Error/Clarification
358	22	“programatic”	“programmatic”	Spelling Error
362	3	“programatic”	“programmatic”	Spelling Error
363	2	“have the data, but the degree”	“have the data about the degree”	Transcription Error/Clarification
364	8	“programatic”	“programmatic”	Spelling Error
364	11	“programatic”	“programmatic”	Spelling Error
365	16	“And you agreed”	“And you agree”	Transcription Error or Mistake
370	2	“programatic”	“programmatic”	Spelling Error
371	2	“programatic”	“programmatic”	Spelling Error

HIGHLY CONFIDENTIAL

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: *United States et al. v. Google LLC*, No. 1:23-cv-00108 (E.D. Va.)

Deposition Date: 02/28/2024

Deponent: Professor Itamar Simonson

CORRECTIONS

Page	Line	Change	Reason
13	18	The words “list in hindsight. It” should read “list in hindsight, it”	Transcription error
18	4	The word “There” should read “They”	Transcription error
18	5	The words “headed a position” should read “had a deposition”	Transcription error
30	12	The word “doctorate” should read “doctoral”	Transcription error
30	15	The word “or” should read “or the”	Transcription error
31	10	The word “receive” should read “received”	Transcription error
31	10	The words “Nobel Prize” should read “the Nobel Prize”	Clarification
34	22	The word “group” should read “groups”	Transcription error
37	18	The word “likely” should read “likelihood of”	Transcription error
43	4	The words “ranked ordered” should read “rank ordered”	Transcription error
44	16	The word “decisionmaking” should read “decision making”	Transcription error
44	21	The word “decisionmaking” should read “decision making”	Transcription error
44	24	The words “much better and rely” should read “much better at relying”	Transcription error
46	10	The word “Are” should read “They’re”	Transcription error
47	10	The words “work for” should read “work for a”	Clarification
47	10	The word “firm” should read “firm?”	Transcription error
52	21	The words “there’s, like” should read “that’s like”	Transcription error
55	21	The words “testify about” should read “testify about it”	Transcription error

57	10	The word “Archer-Daniels” should read “Archer Daniels”	Transcription error
57	23	The word “listed” should read “not listed”	Transcription error
57	23	The word “not” should read “no”	Transcription error
58	11	The words “testify. It” should read “testify if it”	Transcription error
58	12	The word “in” should read “on”	Transcription error
65	10	The words “can find” should read “can find it”	Transcription error / clarification
74	18	The word “was” should read “were”	Transcription error
85	13	The word “Abarantes” should read “Abrantes”	Transcription error
91	21	The word “programatic” should read “programmatic”	Transcription error
92	5	The word “programatic” should read “programmatic”	Transcription error
92	17	The word “programatic” should read “programmatic”	Transcription error
101	20	The word “programatic” should read “programmatic”	Transcription error
101	23	The word “programatic” should read “programmatic”	Transcription error
102	13	The word “programatic” should read “programmatic”	Transcription error
102	21	The word “programatic” should read “programmatic”	Transcription error
104	16	The word “programatic” should read “programmatic”	Transcription error
109	4	The word “less” should read “less than”	Transcription error
110	7	The words “there was” should read “it was about”	Transcription error
111	2	The words “just a get” should read “just to get”	Transcription error
111	15	The words “there are” should read “these were”	Transcription error
112	19	The word “programatic” should read “programmatic”	Transcription error
116	8	The word “recognize” should read “recognized”	Transcription error
116	16	The word “agency” should read “and agency”	Transcription error
125	11	The word “one” should read “an”	Transcription error

128	6	The word “pick” should read “picked”	Transcription error
130	2	The words “report list” should read “report lists”	Transcription error
132	14	The words “ad pros” should read “Ad Pros”	Transcription error
133	3	The words “ad pros” should read “Ad Pros”	Transcription error
133	17	The words “ad pros” should read “Ad Pros”	Transcription error
133	21	The words “ad pros” should read “Ad Pros”	Transcription error
134	7	The words “ad pros” should read “Ad Pros”	Transcription error
134	14	The words “ad pros” should read “Ad Pros”	Transcription error
134	19-20	The words “ad pros” should read “Ad Pros”	Transcription error
135	16	The words “ad pros” should read “Ad Pros”	Transcription error
135	18	The words “ad pros” should read “Ad Pros”	Transcription error
136	15	The words “ad pros” should read “Ad Pros”	Transcription error
141	17	The word “kept” should read “keep”	Transcription error
143	2	The word “resident” should read “residence”	Transcription error
148	1	The words “might have followed” should read “might have been followed”	Omission
149	16	The words “apropos all” should read “all”	Transcription error
155	4	The word “attorney” should read “attorneys”	Transcription error
156	23	The word “interview” should read “interviewer”	Transcription error
157	23	The word “your” should read “the”	Transcription error
158	23	The word “received” should read “received the”	Transcription error
177	6	The word “did” should read “do”	Transcription error / clarification
184	10	The words “That saying” should read “That said”	Transcription error
194	22	The word “programatic” should read “programmatic”	Transcription error
200	1	The word “alternative” should read “alternatively”	Transcription error
200	9-10	The words “you also serve as searcher. You” should read “you also as a researcher, you”	Transcription error
202	21	The words “than about those” should read “than on those”	Clarification
206	2	The word “programatic” should read “programmatic”	Transcription error
206	5	The word “programatic” should read	Transcription error

		“programmatic”	
206	18	The word “No” should read “Now”	Transcription error
210	5	The word “point” should read “points”	Transcription error
212	16	The word “programatic” should read “programmatic”	Transcription error
213	5	The word “to” should read “the”	Transcription error
213	17	The words “from between” should read “between”	Transcription error
218	24	The word “that” should read “that’s”	Transcription error
221	8-9	The words “with all but” should read “we talk about”	Transcription error
224	5	The word “result” should read “results”	Transcription error
225	17	The words “southern district” should read “Southern District”	Transcription error
236	3	The words “the hypothesis” should read “hypotheses”	Transcription error
236	9	The words “product called” should read “protocol”	Transcription error
239	7	The word “some” should read “sunk”	Transcription error
241	10	The word “clear” should read “clear?”	Transcription error
242	9	The word “is” should read “were”	Transcription error
244	16	The word “right” should read “the right”	Transcription error
249	8	The word “term” should read “terms”	Clarification
255	14	The word “they” should read “he”	Transcription error
257	12	The words “just Dr. Hoyer” should read “Dr. Hoyer just”	Transcription error
272	7	The word “marketings” should read “marketing”	Transcription error
272	10	The word “criteria” should read “criterion”	Transcription error
274	5	The word “programatic” should read “programmatic”	Transcription error
279	21	The words “you see if” should read “if you see”	Transcription error
287	15	The word “Volkswagon” should read “Volkswagen”	Transcription error
295	14	The word “effect” should read “a fact”	Transcription error
295	15	The words “between – about” should read “between about”	Transcription error

298	7	The word “questions” should read “question”	Transcription error
298	21	The words “experts who prepare” should read “expert who prepared”	Transcription error / clarification
299	12	The word “line” should read “lines”	Transcription error
309	7	The word “were” should read “who were”	Transcription error
318	20	The words “very many” should read “many very”	Transcription error
319	1	The word “patterns” should read “patents”	Transcription error
335	2	The words “No respondents” should read “No respondent”	Transcription error
342	13	The word “never” should read “they never”	Transcription error
343	11	The words “attribute. That’s” should read “attribute that’s”	Transcription error
345	7	The word “seller” should read “sellers”	Transcription error
346	7	The word “at” should read “to”	Transcription error
348	14	The word “programatic” should read “programmatic”	Transcription error
349	11	The words “this question” should read “these questions”	Transcription error
351	12	The word “it” should read “if it”	Transcription error
352	16	The word “programatic” should read “programmatic”	Transcription error
352	24	The word “programatic” should read “programmatic”	Transcription error
353	14	The word “programatic” should read “programmatic”	Transcription error
354	7	The word “programatic” should read “programmatic”	Transcription error
354	14	The word “programatic” should read “programmatic”	Transcription error
354	16	The word “programatic” should read “programmatic”	Transcription error
354	23	The word “programatic” should read “programmatic”	Transcription error
355	5	The word “programatic” should read “programmatic”	Transcription error
355	14	The word “programatic” should read “programmatic”	Transcription error
358	22	The word “programatic” should read	Transcription error

		“programmatic”	
361	9	The word “do” should read “do it”	Clarification
362	3	The word “programatic” should read “programmatic”	Transcription error
363	7	The word “substitutions” should read “substitution”	Transcription error
364	8	The word “programatic” should read “programmatic”	Transcription error
364	11	The word “programatic” should read “programmatic”	Transcription error
366	22	The words “they ask” should read “they were asked”	Transcription error
370	2	The word “programatic” should read “programmatic”	Transcription error
371	2	The word “programatic” should read “programmatic”	Transcription error
383	6	The words “to the” should read “to”	Transcription error
383	15	The word “Number” should read “number”	Transcription error

I have inspected and read my deposition and have listed all changes and corrections above, along with my reasons therefor.

Date : 3/28/2024



Itamar Simonson, Ph.D.